



February 18, 2025

[REDACTED]

RE: [REDACTED] v. DoHS/BFA  
ACTION NO.: 24-BOR-3788

Dear [REDACTED]:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Human Services. These same laws and regulations are used in all cases to assure that all persons are treated alike.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Kristi Logan  
Certified State Hearing Officer  
Member, State Board of Review

Encl: Recourse to Hearing Decision  
Form IG-BR-29

cc: Tracy Hanks, [REDACTED] DoHS

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW**

[REDACTED]

**Appellant,**

**v.**

**Action Number: 24-BOR-3788**

**WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES  
BUREAU FOR FAMILY ASSISTANCE,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**INTRODUCTION**

This is the decision of the State Hearing Officer resulting from a fair hearing for [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the Office of Inspector General Common Chapters Manual. This fair hearing was convened on January 28, 2025.

The matter before the Hearing Officer arises from the Respondent's denial to pay a medical bill incurred on November 8, 2023, under the WV Children's Health Insurance Program (CHIP).

At the hearing, the Respondent appeared by Tracy Hanks, [REDACTED] DoHS. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was his wife, [REDACTED]. The witnesses were placed under oath and the following documents were admitted into evidence.

**Department's Exhibits:**

D-1     2021 Federal and State Income Tax Returns, MAGI Medicaid Budget Screen and Case Summary Screen

**Appellant's Exhibits:**

A-1     Hearing Summary  
A-2     Correspondence from the Bureau for Medical Services dated October 11, 2023  
A-3     Prior Authorization dated July 31, 2023  
A-4     Correspondence to Gainwell Technologies dated August 24, 2024  
A-5     Correspondence to Gainwell Technologies dated March 10, 2024  
A-6     WV CHIP Income Guidelines, effective February 1, 2023

- A-7 2023 Federal and State Income Tax Returns
- A-8 2022 Federal and State Income Tax Returns

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

### **FINDINGS OF FACT**

- 1) The Appellant received WV CHIP benefits for his children, [REDACTED]
- 2) The Appellant was required to complete a WV CHIP redetermination in June 2023.
- 3) The WV CHIP redetermination form was not returned, and WV CHIP benefits were terminated effective June 30, 2023.
- 4) The WV CHIP redetermination form and a copy of the Appellant's 2021 federal income tax returns were submitted to the Respondent on July 27, 2023 (Exhibit D-1).
- 5) After applying all the income deductions allowed by policy, the Respondent determined the Appellant's modified adjusted gross income for 2021 as \$130,394, or \$10,866.17 monthly (Exhibit D-1).
- 6) The Respondent sent a notice of denial to the Appellant on August 1, 2023, advising that the income exceeded the allowable limit to receive WV CHIP benefits.
- 7) On October 11, 2023, the Respondent's Bureau for Medical Services sent the Appellant a letter advising that "Under new guidance from the federal government, the coverage for one or more children in your household was closed due to a system issue and will be reopened to avoid any gap in coverage. You should receive separate approval letters regarding their ongoing coverage by the end of October. If you received a bill for medical care received for which you presented your medical ID card, send that bill to the address below" (Exhibit A-2).
- 8) On November 8, 2023, [REDACTED] had surgery.
- 9) After the surgery, the hospital notified the Appellant that [REDACTED] surgery was not covered by WV CHIP.
- 10) On March 10, 2024, the Appellant sent a certified letter to Gainwell Technologies at the address listed on the October 11, 2023, letter from the Bureau for Medical Services requesting payment of the November 2023, hospital bill (Exhibit A-5).
- 11) The Appellant sent a second certified letter to Gainwell Technologies on August 24, 2024, requesting payment for the November 8, 2023, hospital bill (Exhibit A-4).

- 12) The Appellant is currently in collections with the hospital for the unpaid November 2023 hospital bill.

### **APPLICABLE POLICY**

Bureau for Medical Services Provider Manual Chapter 100 explains prior authorization:

#### **100.9 Prior Authorization for Services**

To receive payment from the Bureau for Medical Services (BMS), a provider shall comply with all prior authorization requirements. The BMS, in its sole discretion, determines what information is necessary to approve a prior authorization request. Prior authorization does not, however, guarantee payment. All other requirements must be met for payment.

West Virginia Income Maintenance Manual Chapter 22 explains WV CHIP eligibility:

#### **22.5 Income**

##### **22.5.1 Modified Adjusted Gross Income Methodology**

The Patient Protection and Affordable Care Act, enacted March 23, 2010, amended by the Health Care and Education Reconciliation Act of 2010, enacted March 30, 2010, are together referred to as the Affordable Care Act (ACA). The ACA required a new methodology for determining how income is counted and how household composition and size are determined when establishing financial eligibility for all three Insurance Affordability Programs (IAP)—Medicaid, Children’s Health Insurance Program (CHIP) and Advance Premium Tax Credits (APTC) through the Marketplace. MAGI Methodology is used to determine financial eligibility for the West Virginia Children’s Health Insurance Program (WVCHIP) and the following Medicaid eligibility groups: Adults, Parents and Other Caretaker Relatives, Pregnant Women, and Children Under Age 19. The same methodology is used to determine WVCHIP eligibility as is used for MAGI Medicaid groups. See Section 4.7.

##### **22.2.6.A Redetermination Schedule and Procedures**

See Section 1.7.7; the schedule and procedures are the same as those for the Medicaid Children Under Age 19 Group

##### **22.2.6.B Clients Found Ineligible at Redetermination**

At the annual redetermination, when income exceeds the allowable income limit, the Assistance Group (AG) is closed and the electronic account will be transferred to the Marketplace for an evaluation for other health coverage benefits.

#### **22.16.1 Requirements for WV CHIP Children**

Income: 150% of the FPL WVCHIP Gold  
211% of the FPL WVCHIP Blue  
300% of the FPL WVCHIP Premium

West Virginia Income Maintenance Manual Chapter 4 Appendix A lists monthly income limits (effective 2023):

150% FPL for a four-person assistance group \$3,750  
211% FPL for a four-person assistance group \$5,275  
300% FPL for a four-person assistance group \$7,500

West Virginia Income Maintenance Manual Chapter 1 explains the application and redetermination process:

#### **1.7.7.A Redetermination Process**

Cases are normally redetermined annually. The redetermination schedule is set automatically by the eligibility system. When possible, the redetermination process is completed automatically using electronic data matches without requiring information from the client.

When the redetermination process cannot be completed automatically, the eligibility system sends a pre-populated form containing case information and requires the client to provide additional information necessary to determine continuing eligibility. A signature is required.

- The pre-populated auto-renewal verification checklist form provides the following information:
- A statement that the AG may receive a verification checklist for completion and return, if reported changes require follow-up,
- A statement that the AG(s) will be closed after proper notification, if the redetermination is not completed, and
- Instructions for submitting the pre-populated redetermination form online by using WV PATH. A phone number to call is included if the individual has questions about submitting the pre-populated auto-renewal verification checklist online.

The client must be given 30 days from the date of the letter to return the information. The information may be submitted by mail, phone, electronically, Internet, or in person. Failure to respond and provide the necessary information will result in closure of the benefit. If the client responds and provides the information within 90 days of the effective date of closure, the agency will determine eligibility in a timely manner without requiring a new application. If the client is found eligible, the coverage must be backdated up to three months.

#### **1.7.8.B Ending Date of Eligibility**

The ending date of eligibility is the last day of the month of the effective date of closure.

West Virginia Income Maintenance Manual Chapter 4 explains income eligibility for MAGI Medicaid coverage groups:

#### **4.7.1 Determining Income Counted for the MAGI Household**

Income of each member of the individual's MAGI household is counted. The MAGI household is determined using the MAGI methodology established in Chapter 3.

#### **4.7.4 Determining Eligibility**

The applicant's household income must be at or below the applicable MAGI standard for the MAGI coverage groups.

**Step 1:** Determine the MAGI-based gross monthly income for each MAGI household income group (IG).

**Step 2:** Convert the MAGI household's gross monthly income to a percentage of the FPL by dividing the current monthly income by 100% of the FPL for the household size. Convert the result to a percentage. If the result from Step 2 is equal to or less than the appropriate income limit (133% FPL), no disregard is necessary, and no further steps are required.

**Step 3:** If the result from Step 2 is greater than the appropriate limit (133% FPL), apply the 5% FPL disregard by subtracting five percentage points from the converted monthly gross income to determine the household income. **Step 4:** After the 5% FPL income disregard has been applied, the remaining percent of FPL is the final figure that will be compared against the applicable modified adjusted gross income standard for the MAGI coverage groups.

#### **4.7.2 Calculating MAGI (What Income is Counted)**

MAGI-based income includes:

- Adjusted gross income (taxable income less deductions/adjustments), excluding:
  - Certain taxable American Indian/Alaska Native income
  - Taxable scholarships/awards used for educational purposes
- Non-taxable Social Security benefits
- Tax-exempt interest
- Foreign earned income

To calculate the MAGI, determine the adjusted gross income amount for each member of the MAGI household whose income will count, for the current month. The MAGI differs from the adjusted gross income, because MAGI accounts for additions and adjustments. The Worker uses the budgeting method established in Section 4.6.1, Budgeting Method, to anticipate future income amounts, consider past income sources, and build monthly income amounts based upon the applicant's reported income.

##### **4.7.2.A Step 1 – Determine the Income**

The Worker must first add all of the individual's income from any of the income sources listed in "Countable Sources of Income" of Section 4.3, Chart 2 and exclude income listed in "Excluded Sources of Income" of Section 4.3, Chart 2.

##### **4.7.2.B Step 2 – Make Adjustments/Deductions**

After the income has been determined in Step 1, determine if any adjustments/deductions are applicable and subtract them from the income determined in Step 1. The Worker must

incorporate allowable deductions (also known as adjustments) in the calculation of MAGI-based income. These adjustments/deductions can be found on page one of IRS form 1040. Different methodologies, as shown in the table below, may be used to incorporate different types of adjustments/deductions into the income determined in Step 1.

The following items are subtracted from the individual's income:

- Educator expenses
- Certain business expenses of reservists, performing artists, and fee-basis government officials
- Health savings account deductions
- Moving expenses (Only for active duty members of the military who are ordered to move or change duty station).
- Deductible part of self-employment tax
- Self-employed Simplified Employee Pension (SEP), Savings Incentive Match Plan for Employees (SIMPLE), and qualified plans
- Self-employed health insurance deductions
- Penalty on early withdrawal of savings
- Alimony paid ONLY if the alimony agreements are finalized prior to January 2019.
- IRA deductions
- Student loan interest deductions.

#### **4.7.2.C Step 3 – Required Additions**

Add the following income sources to the income determined in Step 2:

- Foreign earned income and housing costs as defined in 26 USC §911.
- Any interest received that would normally be excluded from taxes.
- The portion of the individual's Title II Social Security benefits typically excluded from taxation, as described in 26 USC §86(d).
- Self-employment/farming income, after accounting for depreciation and operating losses. In cases where the business or farm operated at a loss, the Worker must subtract the amount of the loss from the income calculation. See the methodology established in Section 4.7 for calculating self-employment income.
- For individuals who expect to be claimed as a tax dependent by a grandparent, another relative, or another individual who is not a parent or stepparent, their household income includes cash support provided by the person claiming them as a tax dependent, if over \$50 per month.
- Lump-sum income must be included, but it must only be counted in the month that it is received.

#### **4.7.5.A Income from Self-Employment**

When a member of the MAGI household IG receives self-employment income, the instructions below must be used to arrive at the gross profit, which is used to calculate countable income. Countable income is determined by subtracting allowable business expenses from the gross income.

#### **4.7.5.A.1 Determining Gross Income**

The method used to determine monthly gross income from self-employment varies with the nature of the enterprise. It is necessary to determine which of the following types of self-employment applies to the client's situation. Once the pattern of self-employment is determined, the instructions below are used to determine how the income is counted.

#### **4.7.5.A.2 Determining Gross Profit**

Gross profit from self-employment is the income remaining after deducting any identifiable costs of doing business from the gross income. The instructions below must be used to arrive at the gross profit, which is used to calculate countable income. These instructions are based upon the IRS Forms used by self-employed individuals to file federal taxes on their self-employment income. Income from self-employment is calculated by totaling the following items, as described on the IRS Forms:

- Add payment cards and third-party network transactions.
- Add gross receipts or sales (separate from items reported above).
- Add income that results from “Statutory Employee” status. If an individual’s income results from such a status, they would receive a W-2 for the year that has the “Statutory Employee” box checked.
- Add any other form of income received by the business.
- Subtract returns, allowances, and other adjustments.
- Subtract the cost of goods sold, calculated using the following methodology:
  - Add value of inventory at the beginning of the period under consideration.
  - Add purchases (disregarding cost of items withdrawn for personal use).
  - Add labor costs (disregarding amounts paid to oneself).
  - Add materials and supplies.
  - Add other costs.
  - Subtract value of inventory at the end of the period under consideration.
- Subtract the expenses related to the business’ operations. The following expenses can be deducted:
  - Advertising
  - Car and truck expenses
  - Commissions and fees
  - Contract labor
  - Depletion
  - Depreciation and section 179 expense deduction
  - Employee benefit programs Insurance (not including health insurance)
  - Interest (mortgage and from other loans)
  - Legal and professional services
  - Office expenses
  - Pension and profit-sharing plans
  - Rent or lease (includes vehicles, machinery, equipment, and other business property)
  - Repairs and maintenance
  - Supplies
  - Taxes and licenses
  - Travel, meals, and entertainment
  - Utilities
  - Wages



- Any other business-related expenses
- Subtract the business' expenses from its income to arrive at the self-employment income profit or loss for the individual.

## **DISCUSSION**

The income limit for WV CHIP for a four-person assistance group is 300% of the FPL, or \$7,500 monthly. The Appellant's WV CHIP benefits were due for an eligibility review in June 2023. WV CHIP benefits for [REDACTED] were terminated effective June 30, 2023, when the review had not been completed. The Appellant submitted the redetermination form to the Respondent on July 27, 2023. Based on the income provided by the Appellant, the Respondent determined the income was excessive to receive WV CHIP benefits.

The Appellant testified that prior authorization from WV CHIP for [REDACTED] surgery was received in August 2023. After receiving the October 2023 letter from the Bureau for Medical Services indicating that WV CHIP coverage would be restored, the Appellant argued that they believed WV CHIP benefits had been reinstated. The Appellant stated the hospital notified them the day after [REDACTED] surgery that WV CHIP benefits were inactive. The Appellant testified that he has sent two letters to Gainwell Technologies asking for payment of the hospital bill, with no response received.

The Appellant argued that prior authorization for [REDACTED] surgery was received in August 2023, however, policy states that prior authorization does not guarantee payment for services, rather prior authorization determines medical necessity of a procedure. Prior authorization for the surgery did not indicate that WV CHIP benefits were open.

The Appellant's WV CHIP benefits were terminated effective June 30, 2023. There was no testimony regarding the October 2023 letter from the Bureau for Medical Services to explain which child, or both, was removed from WV CHIP or the system error that caused the closure. Therefore, the question to be decided is if the Appellant's WV CHIP benefits were properly terminated due to excessive income prior to the system error that occurred in October 2023.

The Appellant provided his 2021 federal income tax returns to verify his income for redetermination. The Appellant's gross income for 2021 was \$182,662. The Respondent allowed the following deductions to determine his modified adjusted gross income:

Car expenses	\$27,721
Insurance	\$2,204
Legal fees	\$150
Office expenses	\$7,900
Tolls	\$63
Clothing	\$450
Cleaning	\$154
Self-employment tax	\$10,175
Health insurance	\$3,451

The total deductions allowed by policy for self-employment income are \$52,268. The deductions are subtracted from the Appellant's gross income for a modified adjusted gross income of \$130,394. This amount is divided by twelve to determine a monthly amount of \$10,866.17. This income exceeds the allowable income limit as set forth in policy of \$7,500. It should be noted that the Appellant's 2022 federal income tax return was not filed until November 2023 and would not have been available as income verification for the June 2023 WV CHIP redetermination.

The Appellant's total countable income was excessive to recertify WV CHIP benefits for [REDACTED] after the June 30, 2023, termination for failure to complete the eligibility review. Once WV CHIP benefits closed, the redetermination form submitted on July 27, 2023, was then considered an application. The Appellant correctly determined the Appellant's monthly modified adjusted gross income as \$10,866.17, which exceeds the limit for a four-person assistance group of \$7,500. The Respondent acted in accordance with policy with the June 30, 2023, termination for failure to complete an eligibility review and subsequent denial of the July 27, 2023, application due to excessive income.

Whereas the Appellant's total countable income, after applying all the deductions allowed by policy, was excessive to recertify WV CHIP benefits, the Respondent's decision to terminate and subsequently deny WV CHIP benefits is affirmed.

#### **CONCLUSIONS OF LAW**

- 1) The income limit for a four-person household for WV CHIP is 300% of federal poverty level or \$7,500 monthly.
- 2) WV CHIP benefits were closed effective June 30, 2023, for failure to complete an eligibility review.
- 3) The Appellant submitted the eligibility review to the Respondent on July 27, 2023.
- 4) Based on the income verification provided by the Appellant, the Respondent determined the Appellant's monthly countable income as \$10,866.17.
- 5) The income was excessive to approve WV CHIP benefits.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate the Appellant's WV CHIP benefits and deny the subsequent July 2023 application due to excessive income.

**ENTERED this 18<sup>th</sup> day of February 2025.**

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**Kristi Logan**  
**Certified State Hearing Officer**