



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph. D
Cabinet Secretary

August 29, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 22, 2011. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for West Virginia CHIP medical benefits and AFDC-Related Medicaid.

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 Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the WV Children's Health Insurance Program (WV CHIP Program) and the Aid to Families with Dependent Children (AFDC-Related) Medicaid Program are based on current policy and regulations. WV CHIP Program regulations state that the child is not eligible for a state group health plan based on a family member's employment with a public agency that has access to a state health plan. A child can qualify for AFDC-Related Medicaid if he/she is considered to be deprived of parental support and care. Eligibility can be established when both parents are in the home and the Principal Wage Earner (PWE) is unemployed. To meet the definition of unemployment, the parent must not have full-time employment which is defined as working 100 hours per month or more. (WV Income Maintenance Manual Section 7.14 and 15.2.C.d)

Information submitted at your hearing reveals that your child currently has medical benefits through a state group health plan based on a family member's employment with a public agency, and therefore not eligible for WV WHIP Program benefits. In addition, the PWE is currently working 100 hours per month or more, which makes her ineligible for AFDC-Related Medicaid benefits.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your application for WV CHIP and Medicaid benefits.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Donna Smith, ESW, WVDHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

-----,

CLAIMANT,

v.

Action Number: 11-BOR-1495 & 1496

**West Virginia Department of
Health and Human Resources,**

RESPONDENT.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing for ----- . This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on August 22, 2011 on a timely appeal filed June 6, 2011.

II. PROGRAM PURPOSE:

Medical coverage under the WV Children's Health Insurance Program (**WV CHIP**) is health insurance administered through the Public Employees Insurance Agency (PEIA) with benefits provided by Acordia National for children from age 1 through age 18. WV CHIP is a means-tested insurance program for which the Department determines eligibility and provides information to PEIA for administration.

The Medicaid categorically related to Aid to Families with Dependent Children Program is designed to provide medical assistance to eligible families with children from the fetal stage to age 18. These dependent children must be deprived of parental support due to the death, continued absence, incapacity, or unemployment of the parents. In addition, the family must meet financial eligibility criteria.

III. PARTICIPANTS:

-----, Claimant

Donna Smith, Economic Service Worker (ESW), WVDHHR

Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in its decision to deny the Claimant's application for WV CHIP and Medicaid benefits for her daughter.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Sections 7.14 and 15.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Claimant's request for Hearing (DFA-FH-1), Received 6/6/11
- D-2 Hearing Summary
- D-3 WVIMM, Chapter 7.14
- D-4a Notice of Decision dated 6/3/11 (AFDC-Related Medicaid denial)
- D-4b Notice of Decision dated 7/8/11 (WV CHIP denial)

VII. FINDINGS OF FACT:

- 1) On June 2, 2011, the Claimant completed an application for medical assistance benefits for her daughter as she is a diabetic and PEIA is not covering a lot of the costs associated with supplies.
- 2) On or about June 3, 2011, the Claimant was advised via a Notice of Decision (D-4a) that her June 2, 2011 application for AFDC-Related Medicaid was denied, as the principal wage earner (PWE) is working 100 hours or more per month. A subsequent notice (D-4b) was sent to the Claimant on July 8, 2011, advising that the June 2, 2011 application for WV Children's Health Insurance Program (WV CHIP) was denied because the Claimant's current health insurance plan does not qualify for WV CHIP.
- 3) The Department's representative testified that the Claimant's daughter was screened for all medical assistance programs but was automatically referred for WV CHIP and AFDC-Related Medicaid due to the assistance group's employment, private health insurance and income. The Claimant's husband is employed full-time by the State of West Virginia's Department of Highways and the Claimant's child currently has medical benefits through his employment. As a result, the determination was made that the Claimant's daughter did not qualify for any medical assistance through the Department.
- 4) The Claimant testified that she thought she saw a statement on the medical application form that indicates eligibility can be established if you pay 20% or more of your income toward private health insurance. The Claimant purported that her PEIA is not covering a large portion of her daughter's required medical supplies and she needs assistance.

- 5) The Department reviewed the WV CHIPS application form (WV KIDS-1) and noted that this is related to good cause for terminating non-expected health insurance coverage when the annual cost of the family coverage is 10% or more of the family's total gross non-excluded annual income (See WVIMM 7.14.D.3). In short, an applicant would not be punished (granted good cause) and could still qualify for WV CHIP benefits after terminating private health insurance.
- 6) West Virginia Income Maintenance Manual, Chapter 15.C.2.c, provides eligibility requirements for AFDC-Related Medicaid and states that a child is considered to be deprived of parental support and care when both parents are in the home and the Principal Wage Earner (PWE) is unemployed. The definition of PWE depends on whether the client is an applicant or a recipient. For applicants, the PWE is the parent who earned the greater amount of income in the 24 months immediately preceding the month of application. For active cases, the PWE is the parent who earned the greater amount of income in the 24 months immediately preceding the month the determination is being made. To meet the definition of unemployment, the parent must not have full-time employment which is defined as working 100 hours per month or more.
- 7) West Virginia Income Maintenance Manual, Chapter 7.14. A, states - The child is not eligible for a state group health plan based on a family member's employment with a public agency that has access to a state health plan. For WV CHIP purposes, a public agency is defined as having operations funded by state revenues that are in part, used to pay an employer's share of an employee's health care in a state health plan such as, but not limited to, PEIA.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that when both parents are in the home, as a condition of eligibility for AFDC-Related Medicaid, the PWE must be unemployed – working less than less than 100 hours per month. As a matter of record, both parties acknowledged that the Claimant's husband is employed full-time (greater than 100 hours per month). With regard to eligibility for WV CHIP benefits, policy clearly indicates that a child is not eligible for a state group health plan based on a family member's employment with a public agency that has access to a state health plan.
- 2) Based on the evidence, the Department was correct in its determination that the Claimant's daughter is currently ineligible for medical assistance - AFDC-Related Medicaid or WV CHIP benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny the Claimant's request for AFDC-Related Medicaid and WV CHIP benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of August 2011.

**Thomas E. Arnett
State Hearing Officer**