



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Earl Ray Tomblin
Governor

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

November 18, 2011

Re: -----

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held November 15, 2011. Your hearing request was based on the Department of Health and Human Resources' action to terminate your Qualified Child Medicaid for your grandson.

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 Qualified Child Medicaid program is based on current policy and regulations. Some of these regulations state that countable income is determined by subtracting allowable deductions and disregards from the total gross non-excludable income and comparing the countable income to the 100% Federal Poverty Level for the assistance group size. (West Virginia Income Maintenance Manual Section 10.10) The income of the legal father of a child must be counted if the father lives in the same household as the child (West Virginia Income Maintenance Manual Section 9.7, B)

The information submitted at your hearing reveals that your grandson does not meet the income guidelines for Qualified Child Medicaid based on your current household composition and income.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate your grandson's medical eligibility for Qualified Child Medicaid.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Cecilia King, [REDACTED] DHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-1954

**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 hearing was convened on November 15, 2011.

II. PROGRAM PURPOSE:

“Qualified Child” Medicaid provides coverage to children under the age of 19 whose family income is at or below 100% of the Federal Poverty Level and who are not eligible for SSI Related Medicaid.

III. PARTICIPANTS:

-----, Claimant
-----, Counsel for Claimant
-----, Claimant’s witness
Phillena Frame, Department representative

Presiding at the hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The questions to be decided are whether the Agency was correct in its decision to count the income of the child's legal father when determining the child's medical eligibility for Qualified Child Medicaid, and whether the Department was correct in its decision to not allow a deduction for the father's Medicare premium when determining countable income for the program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 9.7, B, and 10.10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Copy of West Virginia Children's Health Insurance Program application dated August 19, 2010
- D-3 Copy of Eligibility Determination Screen from Department's computer system dated November 9, 2011
- D-4 Notification letter and review form dated July 6, 2011
- D-5 Copy of Eligibility Determination Screen from Department's computer system dated November 9, 2011
- D-6 Notification letter dated July 27, 2011
- D-7 West Virginia Income Maintenance Manual Income Limits Chart dated July 2011

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was actively receiving Qualified Child (QC) Medicaid for his grandson, ----, when on July 13, 2011, the Claimant submitted to the Department a 12-month review form (D-4) which showed that the child's father, ----, was now residing in the household. The child's father had actually moved into the home several months earlier; however, the Department took no action to consider his income at that time because the child was previously determined eligible for the QC Medicaid program through July 2011. The Department representative explained that changes within the twelve month eligibility period did not affect the child's eligibility for the program until the next review of eligibility.

- 2) The Department determined (D-1) that because the child's father was now living in the household, his income must be counted when determining the child's financial eligibility for Qualified Child Medicaid. As a result, the Department determined that the child was no longer financially eligible for the program. The Department sent the Claimant a notification letter which included the following relevant information:

Your Qualified Child Medicaid benefits will stop. You will not receive this benefit after AUGUST 2011.

Income is more than the income limit for you to receive benefits.

- 3) The parties agree that the household's net countable income is \$1452.50 when the child's father's income is also considered in determining the child's eligibility for the program. This takes into consideration a \$50.00 child support disregard that the family is eligible for. The income was then compared to the 100% Federal Poverty Level (FPL) amount for the household size of 2, which is \$1226.00. The child was found financially ineligible for the program as a result.
- 4) The Claimant contends that the child's father's income should not be counted when determining the child's eligibility for the program. The Department contends that the income must be counted as long as the child's father is living in the same household.
- 5) The Claimant also contends that the child's father should be given a deduction from his countable income because he pays a Medicare premium monthly of \$96.40. The Department contends there is no allowable deduction for this reason.
- 6) Policy in the West Virginia Income Maintenance Manual §9.7, B, states that the income of the following individuals, including ineligible/illegal aliens, is used to determine the child's eligibility for Qualified Child Medicaid:

The child;

The child's mother, if living in the home;

The child's legal father, if living in the home;

- 7) Policy in the West Virginia Income Maintenance Manual Section 10.10, A, regarding income guidelines for Qualified Child Medicaid, states that for unearned income, the first \$50.00 is disregarded. This is the only deduction allowed for unearned income.

VIII. CONCLUSIONS OF LAW:

- 1) The questions for this hearing is whether the Department was correct to count the child's father's income when determining the child's eligibility for Qualified Child Medicaid; and, whether the Department was correct in not deducting his father's Medicare premium from his countable income.

- 2) Policy specifies that the child's legal father's income is to be considered when determining the child's eligibility for Qualified Child Medicaid.
- 3) Policy also specifies that the only deduction from unearned income for QC Medicaid is a \$50.00 child support disregard. There is no provision to deduct the cost of Medicare premium from unearned income.
- 4) As a result of these findings, the Department was correct in its decisions to count the father's unearned income, and in its decision to not allow a deduction for his Medicare premium, which resulted in the Claimant's termination of eligibility for the program.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's decision to terminate the Claimant's eligibility for QC Medicaid.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th Day of November, 2011.

**Cheryl Henson
State Hearing Officer**