



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, West Virginia 24901
Telephone (304) 647-7476 Fax: (304) 647-7486

Joe Manchin III
Governor

January 27, 2005

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 12, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for the WV Children's Health Insurance Program (CHIP).

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 and benefit levels for the WV Children's Health Insurance Program are determined based on current regulations. One of these regulations specifies that countable income is determined by subtracting allowable disregards and deductions from the total gross non-excluded income. If countable income is equal to or less than the maximum income levels, the child is income eligible as a WV CHIP child. (Section 7.10F of the West Virginia Income Maintenance Manual)

The information which was submitted at the hearing revealed that your countable income is excessive for the WV Children's Health Insurance Program.

It is the decision of the State Hearing Officer to uphold the action of the Department to deny your application for the WV Children's Health Insurance Program.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Board of Review
Melissa Kennedy, Department Hearing Representative

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

NAME: _____

ADDRESS: _____

SUMMARY AND DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION

This is a report of the State Hearing Officer resulting from a fair hearing concluded on January 12, 2005 for Mr. _____.

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 originally convened on January 12, 2005 on a timely appeal filed October 26, 2004.

It should be noted here that any benefits under the WV Children's Health Insurance Program have been denied.

All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE

The WV Children's Health Insurance Program is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

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 birth through age 18.

Even though some policies/procedures for WV CHIP are the same as those for Medicaid, medical coverage under WV CHIP is not Medicaid coverage; WV CHIP is a means-tested insurance program for which the Department determines eligibility and provides information to PEIA for administration.

III. PARTICIPANTS

_____, Claimant
Melissa Kennedy, Department Hearing Representative

Presiding at the hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED

The question to be decided is whether or not the household meets the financial requirements to be eligible for the WV Children's Health Insurance Program.

V. APPLICABLE POLICY

Section 7.9 of the West Virginia Income Maintenance Manual reads in part:

The income of the persons in item B is added together and compared to the income limit for the number of persons in item C. If the income is equal to or less than the income limit, WV CHIP

_____ **(Part V. continued)**

coverage is approved for the person in item A.

A. THE ASSISTANCE GROUP (AG)

1. Who Must Be Included

The WV CHIP child must be included in the WV CHIP AG as an eligible recipient of WV CHIP coverage. Each WV CHIP child must be included in a separate WV CHIP AG.

2. Who Cannot Be Included

No one other than the WV CHIP child may be included as an eligible recipient.

B. THE INCOME GROUP

The income of the following individuals is used to determine the child's eligibility:

1. The WV CHIP child
2. The mother of the WV CHIP child, if living in the home with the child
3. The legal father of the WV CHIP child, if living in the home with the child
4. The legal spouse of the WV CHIP child, if living in the home with the child

The income of all other persons, whether or not living with the child, is excluded. This exclusion applies to the income of the child's blood-related or adopted siblings and to the income of any relative(s), other adult(s) or other child(ren) with whom the child lives.

C. THE NEEDS GROUP

Countable income is compared to the income limit for the total number of persons who fall into any of the following groups. The Needs Group must include the following persons:

- The WV CHIP child
- The mother of the WV CHIP child, if living in the home with the child
- The legal father of the WV CHIP child, if living in the home with the child

- The legal spouse of the WV CHIP child, if living in the home with the child
- The child of the WV CHIP child, if living in the home.
- The WV CHIP child's blood-related or adopted siblings who are under age 18, or who, if they receive Medicaid, receive it as dependent children.
- The expected birth, or births when a multiple birth is expected, that is a blood related sibling of the child.
- The expected birth, or births when a multiple birth is expected, when the WV CHIP child is pregnant.

_____ **(Part V. continued)**

Section 7.10F of the West Virginia Income Maintenance Manual reads in part:

Countable income is determined by subtracting allowable disregards and deductions from the total gross non-excluded income. The net monthly countable income of the Income Group must not exceed the amount shown in Step 5 below and in Appendix A, Chapter 10.

Step 1: Determine the amount of monthly gross non-excluded earned income of the Income Group. Do not include the income of any sibling of the WV CHIP child.

Step 2: Subtract the AFDC Medicaid Standard Work Deduction for each employed person.

Step 3: Subtract the AFDC Medicaid Dependent Care Deduction up to the maximum allowable amounts. Eligibility for and the maximum amounts of the deduction are determined as for AFDC Medicaid. See Section 10.7, B, 1, d.

Step 4: Add the non-excluded gross unearned income of the Income Group. This includes the child's countable child support. Do not include the income of any sibling of the WV CHIP child.

Step 5: The resulting figure is the countable income against which income eligibility is tested.

The FPL (200%) for the number of people in the Needs Group is used. See Appendix A, Chapter 10. If countable income is equal to or less than the maximum income levels, the child is income eligible as a WV CHIP child.

Appendix A, Chapter 10 of the West Virginia Income Maintenance Manual shows:

The FPL (200%) for three people is \$2612.

Section 7.14 of the West Virginia Income Maintenance Manual reads in part:

One of the requirements for WV CHIP is that countable family income, determined according to section 7.10 is equal to or less than 200% FPL

Section 7.14D #3 of the West Virginia Income Maintenance Manual reads in part:

Good cause for terminating non-excepted health insurance coverage exists when the annual cost of the family coverage is 10% or more of the family's total gross non-excluded annual income. The total cost of family coverage includes basic coverage and any optional dental or optical coverage, even when paid separately from basic coverage.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED

- DHS-1) RAPIDS Screens AFEI, Employment 01; AFUI, Unearned Income 02; AFUI Unearned Income 03 and AFEI, Employment 02
- DHS-2) Section 7.10 of the West Virginia Income maintenance Manual
- DHS-3) Appendix A, Chapter 10, of the West Virginia Income Maintenance Manual
- DHS-4) Notification Letter dated 10/27/04
- C-1) CHIP Application and Form
- C-2) Applicant Information for CHIP
- C-3) [REDACTED] Election of Insurance Benefit

VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Findings of Fact:

1. The claimant was sent a letter dated 10/27/04 (DHS-4) which reads in part:

“Your 09/29/04 application for WV Children’s Health Insurance Program (WV CHIP) has been denied. Reason: The income we count is too much for you to receive benefits.”

2. The income listed for the application includes:

\$1,319.00 RSDI for _____

\$ 692.00 RSDI for _____

\$1,836.64 Earnings for _____ from [REDACTED]

\$ 43.00 Earnings for _____

It was noted that Mr. _____ no longer has the earned income nor did he have this income at the time of application. The total household income excluding these earnings is \$3,847.64.

3. The claimant agreed with the income counted by the Department to determine eligibility.
4. Mr. _____ testified that the reason he requested the hearing was that on the WV CHIP application form (C-2), it states “exception because insurance premium is over 10% of income.”. Also, on the application guide (C-1), states “Your family’s annual health insurance cost (premiums paid for medical, dental and vision are counted) is 10% or more of family’s yearly gross income.”
5. The employee’s share of the health insurance premium from [REDACTED] is \$443.48. The amount deducted from each pay check is \$221.74. (C-3)
6. The claimant’s son is an asthmatic and also has diabetes.

B. Conclusions of Law:

1. There is an income requirement for the WV CHIP Program. The family’s countable income must be equal to or less than 200% FPL.
2. The countable income in this case is \$3,757.64. The number in the Needs Group is three. The calculation is:

Earned Income: \$1,836.64

Less AFDC Standard Work Deduction:	\$90.00
	\$1,746.64
Plus Unearned Income:	\$2,011.00
Countable Income:	\$3,757.64

3. The 200% Federal Poverty Level for three is \$2,612.
4. The countable income of \$3,757.64 exceeds \$2,612.

VIII. DECISION

It is the finding of the State Hearing Officer that the household has excessive income for the WV CHIP Program. Policy states that one of the requirements for WV CHIP is that countable family income has to be equal to or less than 200% Federal Poverty Level (FPL). The income group consists of the claimant, his spouse and child. Their countable income is \$3,757.64 and 200% FPL

_____ **(Part VIII. continued)**

for a needs group of three is \$2612.00. The claimant's countable household income is excessive for the WV CHIP Program. The Department is upheld in the decision to deny the claimant's application for the WV CHIP Program. The insurance policy referred to by the claimant in the hearing pertains to good cause for terminating non-expected health insurance coverage. A household must meet the income guidelines.

IX. RIGHT OF APPEAL

See Attachment.

X. ATTACHMENTS

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29.

