



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
227 Third Street
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 19, 2005

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 26, 2005. Your hearing request was based on the Department of Health and Human Resources' action to terminate your son's WV CHIP benefits.

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 CHIP Program is based on current policy and regulations. Some of these regulations state as follows: Countable family income must be equal to or less than 200 percent of the Federal Poverty Level to qualify for CHIP benefits. (WV Income Maintenance Manual Sections 7.10 and 7.14)

Information submitted at your hearing revealed that your countable household income is excessive for the WV CHIP Program.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate your son's WV CHIP benefits based on excessive income.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Linda Amick, ESW, DHHR

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

_____,

Claimant,

v. **Action Number:** _____

**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 concluded on August 19, 2005 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 July 26, 2005 on a timely appeal filed July 5, 2005.

II. PROGRAM PURPOSE:

The program entitled WV CHIP is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & 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 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.

III. PARTICIPANTS:

_____, Claimant
Linda Amick, Economic Service Worker, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department was correct in its decision to terminate the Claimant's WV CHIP benefits.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Sections 7.2, 7.9, 7.10 and 7.14

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 IM-FH-1 dated July 5, 2005
- D-2 WV Income Maintenance Manual Sections 7.2, 7.3, 7.9, 7.10, 7.14 and income chart
- D-3 WV CHIP redetermination form
- D-4 WV CHIP closure letter dated July 7, 2005

VII. FINDINGS OF FACT:

- 1) On June 30, 2005, the WVDHHR Customer Service Center processed a WV CHIP redetermination form (D-3) for the Claimant's son. It was determined that the child was ineligible for WV CHIP as a result of excessive income. Income verified on the redetermination form included \$974 in Social Security and \$930 in Veterans Administration benefits for the Claimant - and \$263 in Social Security for the Claimant's son - for a total countable income of \$2,167. Ms. Amick said it was later determined that the Claimant's gross Social Security income was \$1,052.20, which would actually bring total countable household income to \$2,245.20.

- 2) The income chart included in Exhibit 2 lists the Federal Poverty Level for a two-person needs group as \$2,139.

- 3) A WV CHIP closure letter was sent to the Claimant on July 7, 2005 which stated:

Action: Your WV Children's Health Insurance Program (WV CHIP) will stop. You will not receive this benefit after July 2005.

Reason: The income we count is too much for you to receive benefits. Your income has increased.

- 3) The Claimant testified that his son has sleep apnea, a condition which requires special medical equipment, and he is concerned about the cost of the equipment. The Claimant has a second son to whom he provides financial assistance, however that child is in his mother's custody.

- 4) WV Income Maintenance Manual Section 7.2 (D-2) states that WV CHIP redetermination notices are mailed on the second working day of the 10th month of eligibility and are due by the third working day of the 12th month.
- 5) WV Income Maintenance Manual Section 7.9B (D-2) states that the income of the following individuals is used to determine the child's eligibility:
 - 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
- 6) WV Income Maintenance Manual Section 7.10 E, 2, (D-2) specifies that the only allowable disregard for unearned income is the first \$50 of child support income.
- 7) WV Income Maintenance Manual Section 7.10 F (D-2) states that the Federal Poverty Level (200 percent) for the number of people in the needs group is used. If countable income is equal to or less than the maximum income levels, the child is income eligible as a WV CHIP child.

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant's countable household income for the WV CHIP Program is \$2,245.20
- 2) The income limit for a needs group of two (Mr. _____ and his son) is \$2,139.
- 3) There are no allowable deductions from the unearned household income as the income is not child support.
- 4) Household income is excessive for the WV CHIP Program based on 200 percent of the Federal Poverty Level for two people.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Agency to terminate the Claimant's WV CHIP benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th Day of August, 2005.

**Pamela L. Hinzman
State Hearing Officer**