



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P. O. Box 2590  
Fairmont, WV 26555

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

September 11, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 26, 2006. Your hearing request was based on the Department of Health and Human Resources' action to terminate your Medicaid 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. In order to qualify for CHIP benefits, the regulations state that the countable family income must be equal to or less than 200 percent of the Federal Poverty Level. Policy goes on to state that a child is eligible as a WV CHIP child if the child does not have individual or group health insurance coverage. (WV Income Maintenance Manual Sections and 7.14)

The information submitted at your hearing reveals that you were notified of WV CHIP closure due to "increased earned income", however, the evidence fails to demonstrate that your income was in excess of the established standard. Because the Department presented evidence to indicate that your son is no longer eligible for WV CHIP due to private health care coverage, the Department is required to continue WV CHIP coverage pending proper notification.

It is the decision of the State Hearing Officer to **reverse** the proposal of the Agency to terminate the Claimant's WV CHIP benefits pending proper notification.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
Sue Arthur, ESW, DHHR

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

\_\_\_\_\_,  
**Claimant,**

**v.**

**Action Number: 06-BOR-1430**

**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 September 11, 2006 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, 2006 on a timely appeal filed March 15, 2006.

**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  
Sue Arthur, ESW, DHHR

Presiding at the hearing was Thomas E. Arnett, 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 Chapter, 7.14  
WV DHHR Common Chapters Manual, Chapter 700

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 WV CHIP Application received March 3, 2006
- D-2 Notice of Decision dated 3/8/06
- D-3 WVIMM Chapter 7.14

**Claimant's Exhibits:**

- C-1 DHHR BMS Application Guide and Form
- C-2 WVIMM Chapter 7.14
- C-3 Written statement from \_\_\_\_\_

**VII. FINDINGS OF FACT:**

- 1) On March 3, 2006, the Department received an application for a reevaluation of the Claimant's Medicaid (WV CHIP) coverage.
- 2) On or about March 8, 2006, the Claimant was notified via a Notice of Decision that eligibility could not be established. This notice states:

ACTION: Your WV Children's Health Insurance Program (WV CHIP) will stop. You will not receive this benefit after March 2006.

REASON: Earned income increased

- 3) In accordance with Common Chapters Manual, 760 (A), the Claimant's hearing request was received within 13 days of adverse action notice, and she requested that WV CHIP Medicaid benefits continue at the time of her appeal. Therefore, the Claimant's benefits are reinstated retroactive to April 1, 2006 effective immediately.

- 4) Testimony presented by the Department indicates that the Claimant's WV CHIP was closed because the child has private insurance as indicated on Exhibit D-1. The Department acknowledged that the Claimant can drop private insurance and become eligible for WV CHIP based on the fact that they are paying 10% or more of the family's yearly gross income for private insurance, but they cannot have private insurance and qualify for WV CHIP. The Department acknowledged that the Claimant's income does not appear to exceed the established income guidelines for the WV CHIP Program. It should be noted, however, that the Notice of Decision (Exhibit D-2) cites "Earned Income Increase" as the reason for closure, not private health insurance.
- 5) The Claimant submitted Exhibit C-1, Application Guide and Form for WV CHIP Program which states under "Other Insurance" – If you child has had other insurance within the last six months, you will not qualify unless you meet one of the following exemptions: Your family's annual health insurance cost (only premiums paid for medical, dental and vision are counted) is 10% or more of the family's yearly gross income. . . The Claimant read this to mean that she can have good cause for keeping her private insurance while qualifying for WV CHIP. The Claimant testified that her private insurance has paid over \$700,000 in medical costs in the last 3 years and Medicaid will only allow you \$1,000,000 for a lifetime. The Claimant's son was born with Hirschsprung's Disease and he requires a specialized formula (Bright Beginnings Pediatric Drink) and having WV CHIP makes him qualify to get formula through WIC. She believes policy allows her to keep private insurance and WV CHIP coverage.
- 6) WV Income Maintenance Manual, Chapter 7.14.A – Specific WV CHIP Requirements states that a child is eligible as a WV CHIP child, when all of the following conditions are met when - "The child does not have individual or group health insurance coverage."
- 7) WV Income Maintenance Manual, Chapter 7.14, Appendix A provides a definition of **Health Insurance Coverage** as Benefits consisting of medical care, provided directly, through insurance or reimbursement, or otherwise, and including items and services paid for as medical care under any hospital or medical service policy or certificate, hospital or medical service plan contract, or HMO contract, offered by a health insurance issuer.
- 8) WV Income Maintenance Manual, Chapter 7.14.D.3 (Excessive Cost of Family Coverage) states – 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 the basic coverage. When a good cause determination is made due to premium cost exceeding 10% of the family's gross income, special application processing procedures may apply.
- 9) WV Common Chapters Manual, 750.A, provides the components of "Adequate Notice." Among the listed requirements of adequate notice is: (2) The reason(s) for the action given in terms the client or recipient of services can readily understand specifying all applicable policy manual sections.
- 10) WV Common Chapters Manual, 780.D.1 - If the policy was misapplied or other incorrect decision was made, the State Hearing Officer will reverse.

## **VIII. CONCLUSIONS OF LAW:**

- 1) Policy found in the WVIMM provides circumstances under which a child is not eligible for Medicaid through the WV Chip Program. This includes ineligibility if the child has individual or group health insurance coverage. The Claimant reported on her application that her son has medical insurance through Blue Cross Blue Shield and acknowledged continuing coverage on the record. In accordance with the definitions provide in Appendix A of Chapter 7.14 of the WVIMM, the Claimant's child is a recipient of group health insurance.
- 2) The Claimant's interpretation of the policy that allows for "good cause" only pertains to when the WV CHIP coverage can become effective - Good cause can be given for canceling a private medical insurance and Medicaid coverage would begin immediately when - "the annual cost of the family coverage is 10% or more of the family's total gross non-excluded annual income." This policy does not allow for the continuation of private medical insurance in conjunction with WV CHIP.
- 3) West Virginia Department of Health and Human Resources, Common Chapters Manual, provides that notice must be "adequate." The Department indicated at the hearing that the Claimant's case was closed due to having private health insurance, not excessive income.
- 4) Whereas the Department's notice fails to meet the "adequate" standard, in accordance with WV DHHR Common Chapters Manual 780 (D) the Department proposed termination is reversed pending proper notification.

## **IX. DECISION:**

It is the decision of the State Hearing Officer to **reverse** the proposal of the Agency to terminate the Claimant's WV CHIP benefits pending proper notification.

## **X. RIGHT OF APPEAL:**

See Attachment

## **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 11th Day of September, 2006.**

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**Thomas E. Arnett**  
**State Hearing Officer**