



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 19, 2006

Dear Mrs. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 16, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your son's West Virginia 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: The income of persons in the WV CHIP income group is added together and compared to the income limit for the number of persons in the needs group. If the income is equal to or less than the income limit, WV CHIP coverage is approved for the individual in the assistance group. (WV Income Maintenance Manual Section 7.9)

Information submitted at your hearing revealed that your countable household income is excessive for the WV CHIP Program based on a three-person needs group.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny 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
Pam Street, FSS, DHHR

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

____,

Claimant,

v.

Action Number: 06-BOR-1501

**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 May 19, 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 May 16, 2006 on a timely appeal filed March 28, 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

____, husband of Claimant

Pam Street, Family Support Supervisor, 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 deny the Claimant's WV CHIP benefits.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Sections 7.9, 7.10 and Chapter 10, Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV CHIP application
- D-2 Income determination
- D-3 Notice of Decision dated March 15, 2006
- D-4 WV Income Maintenance Manual Section 7.9

VII. FINDINGS OF FACT:

- 1) The Claimant applied for WV CHIP for her son, _____, in an application (D-1) received at the _____ DHHR office on March 13, 2006. Household members listed on the application included Mr. and Mrs. _____, and the _____'s 20-year-old son, _____, whose birth date was listed as February 13, 1986.
- 2) Total countable household income was \$2,828.12, including retirement benefits, worker's compensation, Social Security and Veteran's Administration benefits. The _____ did not dispute the income calculation (D-2).
- 3) On March 15, 2006, the Department sent the Claimant a Notice of Decision (D-3) which states that the WV CHIP application was denied because countable income exceeds the income limit of \$2,767.
- 4) The _____ testified that they are still supporting their son _____, who is a college student. They believe that it is unfair to exclude _____ from the WV CHIP needs group since he is still their dependent child. In addition, Mr. _____ stated that he was informed that his Veteran's Administration benefits are excluded as countable income for assistance programs.
- 5) WV Income Maintenance Manual Section 7.9 (D-4) states that the income of persons in the income group is added together and compared to the income limit for the number of persons in the needs group. If the income is equal to or less than the income limit, WV CHIP coverage is approved for the person in the assistance group.

- 6) WV Income Maintenance Manual Section 7.9A states that the WV CHIP assistance group includes only the WV CHIP child.
- 7) WV Income Maintenance Manual Section 7.9B 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
- 8) WV Income Maintenance Manual Section 7.9C states:

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 19, 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
- 9) WV Income Maintenance Manual Section 7.10 E, 2, specifies that the only allowable disregard for unearned income is the first \$50 of child support income.
- 10) WV Income Maintenance Manual Section 7.10 F 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.
- 11) WV Income Maintenance Manual Section 10, Appendix A states that the Federal Poverty Level (200 percent) for a three-person needs group is \$2,767.

- 12) WV Income Maintenance Manual Section 10.3JJJJ states that veteran's benefits are considered as unearned income for the WV CHIP Program.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that a WV CHIP child's blood-related or adopted siblings can only be included in the WV CHIP needs group if they are under age 19, or if they receive Medicaid as dependent children. The WV CHIP application indicates that ____ II was 20 years old at the time the form was submitted to the Department on March 13, 2006.
- 2) Total countable household income for the WV CHIP Program is \$2,828.12 as policy dictates that Veteran's Administration benefits are counted as unearned income for WV CHIP purposes and must be included in the income calculation.
- 3) The income limit (200 percent of the Federal Poverty Level) for a needs group of three (Mr. ____, Mrs. ____ and ____) is \$2,767.
- 4) There are no allowable deductions from the unearned household income as the income is not child support.
- 5) Household income is excessive for the WV CHIP Program based on 200 percent of the Federal Poverty Level for a three-person needs group.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Agency to deny 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 May 2006.

Pamela L. Hinzman
State Hearing Officer