



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
235 Barrett Street
Grafton WV 26354
April 18, 2006

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 9, 2006. Your hearing request was based on the Department of Health and Human Resources' action to discontinue Medicaid Qualified Child coverage and find you ineligible for the WV CHIP program.

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 Department's Medical programs is determined based on current regulations. A child may not be eligible for the WV CHIP program if the child receives or is eligible for medical coverage under a state group health plan based on a family member's employment with a public agency. The income test for the Medicaid for Qualified Children program is the current 100% of the Federal Poverty Level. (West Virginia Income Maintenance Manual § 7.14, 16.5)

The information which was submitted at the hearing revealed that your monthly countable income exceeds the current standard for the Medicaid Qualified Child program and eligibility for the WV CHIP program cannot be established based on other medical coverage.

It is the decision of the State Hearing Officer to **uphold** the action of the agency regarding Medicaid Qualified Child and WV CHIP eligibility.

Sincerely

Ron Anglin
State Hearing Examiner
Member, State Board of Review

cc: Board of Review
WVDHHR, Teresa Nestor

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

_____,
Claimant,

v.

Action Number 05-BOR-7103

West Virginia Department of Health & Human Resources.
Respondent.

SUMMARY AND DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Examiner resulting from a fair hearing concluded on March 29, 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 April 18, 2006 on a timely appeal filed November 14, 2005.

II. PROGRAM PURPOSE:

The program entitled Medicaid 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 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.

The Department provides **Medicaid to Qualified Children** born on or after 10/01/83. This was mandated by the State Legislature and required a waiver from the federal regulations to implement. These children are Qualified Children in every way except their age. They are referred to as Medicaid Expansion cases because the approved waiver allowed the Department to expand Qualified Child Medicaid coverage to more children.

III. PARTICIPANTS:

_____, claimant

Brenda Davis, ESW, Agency Representative.

Mary Myers, ESW, Agency Representative

Presiding at the hearing was Ron Anglin, State Hearing Examiner and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

Was the agency correct in closure if the claimant's Qualified Child Medicaid case and denial of her WV CHIP application?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 7.9, 16.5, 10.10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Agency's Exhibits:

E-1- Notification of WV CHIP denial, 10/27/05

E-2- Case Comments, 8/12- 8/23/05

E-3- QC MA Eligibility Determination, 1/26/06

E-4-WVIMM 7.9, 7.14, 9.7, 9.8, 16, 5, 10.10

E-5- WVIMM Chapter 10 Appendix A

VII. FINDINGS OF FACT:

1) The claimant was informed in a notification dated 10/27/05 that her 7/28/05 WV CHIP application was denied and that her Qualified Child Medicaid case was being closed based on other medical coverage (for WV CHIP) and countable income (for QC Medicaid). The claimant requested a hearing 11/14/05. This request was received by this examiner 12/9/05 and a hearing was scheduled for 1/26/06. The claimant failed to appear and an abandonment letter was issued 1/26/06. The claimant responded 2/2/06 and the hearing was rescheduled and convened 3/9/06.

- 2) During the hearing Exhibits as noted in Section VI above were submitted.
- 3) Testimony was heard from the individuals listed in Section III above. All persons giving testimony were placed under oath.
- 4) There is no dispute as to the facts of the case. The claimant's earnings total approx. \$1484 monthly and her minor child receives Social Security benefits of \$451 monthly. Medical health insurance (PEIA) is available through the claimant's employer.
- 5) West Virginia Income Maintenance Manual § 7.14 (A) reveals that a child may not be eligible for the WV CHIP program if the child has "other" individual or group health insurance coverage or the child receives or is eligible for medical coverage under a state group health plan based on a family member's employment with a public agency. PEIA is a state group health plan.
- 6) West Virginia Income Maintenance Manual § 16.5 D reveals that the income test for the Medicaid for Qualified Children program is the current 100% of the Federal Poverty Level.
- 7) West Virginia Income Maintenance Manual § 9.7 reveals that countable income for purposes of the Medicaid for Qualified Children program is based on the income of the child and any parent(s) living with the child.
- 8) West Virginia Income Maintenance Manual, Chapter 10 Appendix reveals the 100% of the Federal Poverty Level for 2 persons is \$1070.

VIII. CONCLUSIONS OF LAW:

- 1) Policy directs that a child may not be eligible for the WV CHIP program if the child has "other" individual or group health insurance coverage or the child receives or is eligible for medical coverage under a state group health plan based on a family member's employment with a public agency. PEIA is a state group health plan. Evidence reveals the child is eligible for coverage under PEIA.
- 2) Policy directs that countable income for purposes of the Medicaid for Qualified Children program is based on the income of the child and any parent(s) living with the child. Evidence reveals that the income of the child and mother totals \$1935 monthly.
- 3) 100% of the Federal Poverty Level for 2 persons is \$1070. The claimant's countable income clearly exceeds the maximum allowable.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the determination of the Agency in finding the claimant ineligible for the Medicaid Qualified Child and WV CHIP programs.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 18th Day of April, 2006.

Ron Anglin
State Hearing Examiner

CLAIMANT'S RECOURSE TO ADMINISTRATIVE HEARING DECISION

For Public Assistance Hearings, Administrative Disqualification Hearings, and Child Support Enforcement Hearings

A. CIRCUIT COURT

Upon a decision of a State Hearing Officer, the claimant will be advised he may bring a petition in the Circuit Court of Kanawha County within four months (4) from the date of the hearing decision.

The Court may grant an appeal and may determine anew all questions submitted to it on appeal from the decision or determination of the State Hearing Officer. In such appeals a certified copy of the hearing determination or decision is admissible or may constitute prima facie evidence of the hearing determination or decision. Furthermore, the decision of the circuit Court may be appealed by the client or petitioner to the Supreme court of Appeals of the State of West Virginia.

B. THE UNITED STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the United States Department of health and Human Services, Washington, D.C. 20201.

C. THE UNITED STATE DEPARTMENT OF AGRICULTURE

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the Department of Agriculture, Washington, D.C. 20250.