



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901**

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

June 8, 2006

Dear Mr. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 17, 2006. 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 (WV 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 for the WV Children's Health Insurance Program is based on current policy and regulations. Some of these regulations state as follows: A child is eligible as a WV CHIP child, when all of the following conditions are met: The child is not eligible for a state group health plan based on a family member's employment with a public agency. This includes, but not limited to, county and municipal employees and school board employees. This requirement is based on eligibility for such coverage, not on the receipt of it. It is noted that this requirement does not apply if the public agency contributes less than \$10 more per family, per month toward the cost of dependent coverage, than their contribution toward the cost of covering the employee only. (Section 17.4A of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that your child is eligible for a state group health plan. The City of Ronceverte does not contribute any money for the cost of your child's coverage.

It is the decision of the State Hearing Officer to reverse the action of the Department to deny your application for WV CHIP.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Susan Godby, DHHR

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

____,

Claimant,

v.

Action Number: 05-BOR-7198

**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 February 17, 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 February 17, 2006 on a timely appeal, filed December 27, 2005.

It should be noted here that the claimant's benefits have been denied.

II. PROGRAM PURPOSE:

The Program entitled WV Children's Health Insurance 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
Susan Godby, Department Hearing Representative

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

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department was correct in the decision to deny the claimant's application for the WV CHIP Program because of other health care coverage.

V. APPLICABLE POLICY:

Section 7.14A of the West Virginia Income Maintenance Manual
DW#17 for the Income Maintenance Manual Change Number 299 dated September 1, 2003

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Form IG-BR-29 Hearing/Grievance Record Information
D-2 Notification letter dated 12/14/05
D-3 Sections 7.9 & 7.14 of the West Virginia Income Maintenance Manual
D-4 Department's Summary

Claimant's Exhibits:

C-1 Letter from ____ dated 12/23/05
C-2 Employment Agreement for ____ dated 02/20/05

VII. FINDINGS OF FACT:

- 1) The claimant applied for Medicaid on 11/03/05. The income is over the limits for Medicaid. The application was considered for WV CHIP. Mr. ____ has PEIA coverage but his employer pays \$0 toward family coverage.
- 2) A letter was sent to the claimant dated 12/14/05. (D-2) It reads in part:

Your 11/03/05 application for WV Children's Health Insurance Program (WV CHIP) has been denied. Reason: Your current health insurance plan does not qualify you for WV Children's Health Insurance (CHIP) coverage based on the acceptable health insurance plans outlined by the WV CHIP Board.
- 3) Mr. ____ is employed by the City of [REDACTED] a West Virginia municipal corporation, as city manager.
- 4) Under Section 12, Disability, Health and Life Insurance of the claimant's contract, it reads: MANAGER will receive the same benefits as provided other CITY employees under City's plan for health, hospitalization, vision, dental, life insurance and short term

disability. MANAGER'S coverage thereunder will be paid by the CITY. MANAGER will pay for any family coverage. (C-2)

- 5) Mr. ____ stated in a letter that "in my situation, my municipality pays \$344 for my insurance and \$344 when I added my family. In the example, the client's employer paid less than \$10 toward the cost than they pay for the client's insurance alone, so the child is eligible. In my case, my employer also pays less than \$10 more toward the cost than they pay for my insurance alone, so my children and possibly spouse should be eligible for CHIP coverage. My insurance premium is \$688 a month for the cheapest PEIA coverage....." (C-1) Mr. ____ feels the Department is interpreting the policy backwards. When he adds his dependent to his coverage, the city pays the same exact dollar amount. He added his family members on to PEIA at his own expense.

- 6) Section 7.14A of the West Virginia Income Maintenance Manual reads in part that a child is eligible as a WV CHIP child, when all of the following conditions are met:

The child is not eligible for a state group health plan based on a family member's employment with a public agency. This includes, but not limited to, county and municipal employees and school board employees. This requirement is based on eligibility for such coverage, not on the receipt of it. PEIA, including HMO coverage, is a state group health plan, so the children of WV State employees are not eligible for WV CHIP.

Note: This requirement does not apply if the public agency contributes less than \$10 more per family, per month toward the cost of dependent coverage, than their contribution toward the cost of covering the employee only.

Example: A client has PEIA through the county agency for which he works. The county agency pays \$25 toward the cost of his insurance. If he adds his son to his insurance, his employer pays \$30 (\$25 for him and \$5 additional for family coverage) toward the cost of his family insurance. The insurance is available and his son is eligible, but the employer pays less than \$10 more toward the cost than they pay for the client's insurance alone. If otherwise eligible, the child is eligible for CHIP coverage.

- 7) DW-17, Income Maintenance Manual Change Number 299 dated September 1, 2003, reads that this change makes it possible for children eligible for a state group health plan to receive CHIP coverage if the state agency that provides the group health plan does not pay a contribution toward the dependent's cost, above their contribution toward the employee's cost.

VIII. CONCLUSIONS OF LAW:

- 1) One of the requirements for a child to be eligible as a WV CHIP child is that the child is not eligible for a state group health plan based on a family member's employment with a public agency. This includes, but not limited to, county and municipal employees and school board employees. This requirement is based on eligibility for such coverage, not on the receipt of it. It is noted that this requirement does not apply if the public agency contributes less than \$10 more per family, per month toward the cost of dependent

coverage, than their contribution toward the cost of covering the employee only. It is possible for children eligible for a state group health plan to receive CHIP coverage if the state agency that provides the group health plan does not pay a contribution toward the dependent's cost, above their contribution toward the employee's cost.

- 2) ____ is employed by the City of _____ a municipality, as city manager. Mr. ____'s insurance premium is paid for by the city. He must pay for any family coverage. The city does not contribute any money for family coverage.
- 3) The child(ren) is eligible for a state health plan (PEIA) based on the father being employed with a municipality.
- 4) The municipality does not make any contribution toward the cost of the child's insurance. Mr. ____'s contract specifies he will pay for any family coverage.
- 5) The child(ren) is eligible for WV CHIP as he is eligible for a state group health plan based on a family member's employment with a public agency and the public agency that provides the group health plan does not pay a contribution toward the dependent's cost, above their contribution toward the employee's cost alone.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is reversed in the decision to deny the claimant's application for WV CHIP. The application dated November 3, 2005 will be approved provided all other eligibility requirements are met.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of June, 2006.

**Margaret M. Mann
State Hearing Officer**