



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 970
Danville, WV 25053

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

June 29, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 10, 2007. Your hearing request was based on the Department of Health and Human Resources' action to terminate benefits under 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: It is a requirement that the child does not have individual or group health insurance coverage. Most children with health coverage will not qualify for WV CHIP. (Section 7.14A of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that your son has health insurance through your health plan.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate benefits under the WV CHIP medical program.

Sincerely,

Cheryl McKinney
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Lucinda Lambert, [REDACTED] DHHR

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

_____,
Claimant,

v.

Action Number: 07-BOR-1032

**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 10, 2007 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 10, 2007 on a timely appeal, filed February 28, 2007.

It should be noted here that the claimant's benefits have been continued pending the outcome of this hearing.

II. PROGRAM PURPOSE:

The Program entitled WV Children's 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 Accordia 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

_____, Claimant's sister

Lucinda Lambert, Economic Service Supervisor, [REDACTED] DHHR

Presiding at the hearing was Cheryl McKinney, 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 terminate the claimant's WV CHIP medical coverage because of other insurance coverage.

V. APPLICABLE POLICY:

Section 7,14A and Appendix A, Chapter 7 of the West Virginia Income Maintenance Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 IG BR 29 Hearing/Grievance Record Information form
- D-2 ES-NL-B1 Fair Hearing Request Form dated February 20, 2007
- D-3 Copy of Notification letter dated February 26, 2007
- D-4 Copy of WV Income Maintenance Manual Section 7.14 and Chapter 7 Appendix A
- D-5 Department's Summary dated April 19, 2007

Claimant's Exhibits:

- C-1 Copy of Certificate of Group Health Plan Coverage dated April 10, 2007
- C-2 Copy of WVCHIP applications received April 29, 2005 and March 21, 2006

VII. FINDINGS OF FACT:

- 1) The Claimant received WV CHIP medical coverage for her son from April 2004 through February 2007. She came into the DHHR office on February 20, 2007 to inquire about a medical bill that she said was denied because her son, _____, had private health insurance. The Department initiated action to close the WV CHIP medical coverage effective April 2007 due to the receipt of private health insurance. The WV CHIP medical coverage has been continued pending the outcome of this hearing.
- 2) Claimant's son is covered under his mother's health insurance. The Claimant submitted evidence (C-1) that her son has been covered under her private health insurance since

October 31, 2001. She also submitted evidence (C-2) to substantiate that she has consistently reported this fact to the Department throughout the application and review process.

- 3) A letter (D-3) dated February 26, 2007 was mailed to the claimant. It reads in part: Your WV Children's Health Insurance Program (WV CHIP) will stop. You will not receive this benefit after March 2007. Reason: You are no longer eligible for 12 months of continuous medical coverage. Each individual has failed for the reasons stated below. The following individuals are ineligible. _____ This individual is already receiving this assistance.
- 4) Testimony from _____ revealed that she has been paying for medical coverage for her son for several years at a cost in excess of \$6000.00. She testified that a Department representative told her several years ago when she first applied for medical assistance for her son that it was an eligibility requirement that she carry private medical insurance for her son. She stated this was the only reason she obtained this insurance for her son, and it has caused her financial hardship to continue the coverage.
- 5) The Department previously failed to consider and evaluate the information concerning medical insurance coverage as reported by the Claimant.
- 6) The requirements for WV CHIP children are outlined in Section 7.14A of the West Virginia Income Maintenance Manual. One of these requirements is that the child does not have individual or group health insurance coverage. Most children with health coverage will not qualify for WV CHIP.
- 7) Appendix A, Chapter 7 of the West Virginia Income Maintenance Manual entitled "Definitions of Insurance for WV CHIP" reads in part: **Group Health Insurance Coverage:** Health insurance coverage offered in connection with a group health plan. **Group Health Plan:** An employee welfare benefit plan that provides medical care and services to employees or their dependents, as defined under the plan, directly through insurance, reimbursement, or otherwise. **Health Insurance Coverage:** 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.

VIII. CONCLUSIONS OF LAW:

- 1) One of the eligibility criteria for WV CHIP is that the child does not have individual or group health insurance coverage.
- 2) The child in this case does have medical coverage through his mother's plan at work.
- 3) The decision to terminate medical coverage under the WV CHIP medical program is in accordance with policy.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is **upheld** in their decision to terminate the claimant's WV CHIP medical coverage.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of June, 2007.

**Cheryl McKinney
State Hearing Officer**