



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 4, 2008

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

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 23, 2008. 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) and Expansion 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 WV Children's Health Insurance Program is based on current policy and regulations. Some of these regulations state as follows: When a family's countable income exceeds 200% of the Federal Poverty Level (FPL), but is less than or equal to 220% FPL, the child may qualify for CHIP coverage with a premium payment. (Section 7.14A of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that the Department calculated your family's total countable income as \$4544.70 which exceeds the 220% FPL for a family of four (4), and failed to explore all available options for calculating countable income before denying benefits.

It is the decision of the State Hearing Officer to **reverse** the action of the Department to deny benefits under WV CHIP and the Expansion Program.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Jennifer Mynes, CSRC

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

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

**v. Action Number: 08-BOR-1202**

**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 23, 2008 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 23, 2008 on a timely appeal, filed April 7, 2008.

**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 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  
\_\_\_\_\_, Claimant's wife

Jennifer Mynes, Department's Customer Service Center Representative – participated telephonically  
Donnie Harris, CSRC Supervisor, observing telephonically

Presiding at the hearing was Cheryl Henson, 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 WV CHIP and Chip Expansion Program due to excessive income.

**V. APPLICABLE POLICY:**

Section 7.10.C, 7,14A., E., and Appendix C, Chapter 7 of the West Virginia Income Maintenance Manual

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

**Department's Exhibits:**

- D-1 Summary of Events
- D-2 Case Comments dated April 2008
- D-3 Copy of Rapids Screens
- D-4 Appendix A of Income Maintenance Manual
- D-5 Notification letter dated March 24, 2008

**Claimant's Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) The Department's Customer Service Center processed a mail-in review form submitted by the Claimant on March 14, 2008. The Claimant indicated the household consisted of four (4) individuals, and both the husband and wife were employed. The Claimant submitted a pay stub for himself dated February 29, 2008, and a pay stub for his wife. The Department sent the Claimant a notice requesting a copy of the Claimant's 2/15/08 pay stub, as well as all pay stubs received by the Claimant's wife between 2/12/08 and 3/13/08. On March 21, 2008 the Department received the requested information.

- 2) The Department stated they calculated the Claimant's countable income by using his 2/15/08 and 2/29/08 pay stubs. They indicated (D-1) the 2/15/08 pay stub showed 119 hours worked, and the Claimant received \$1869.73 gross pay for the two week period, and the 2/29/08 pay stub showed 114.30 hours worked, with the Claimant receiving \$1910.38 gross pay for a two week period. They stated they arrived at a monthly average income for the Claimant of \$4063.63. They further indicated that the income for the Claimant's wife was calculated by using the pay stubs for 2/16/08 and 3/01/08. They stated the 2/16/08 pay stub showed 40 hours worked with a gross pay of \$235.46 for the two week period, and the 3/01/08 pay stub showed 36.25 hours with gross pay of \$212.06 for the two week period. They further stated her income was averaged as \$481.08 monthly.
- 3) The Department testified that they determined the four (4) person household's countable gross income was \$4544.70, and exceeded the maximum allowable income limit of \$3887.00. The Department then sent the Claimant a termination notice (D-5) for WVCHIP Medicaid on March 23, 2008. The notice included the following:

ACTION: Your WV Children's Health Insurance Program (WV CHIP) will stop. You will not receive this benefit after March 2008.

REASON: Income is more than the net income limit for you to receive benefits.

Earned Income increased.

- 4) The Claimant requested a hearing on April 7, 2008. The Department witness stated that upon instruction from her supervisor (D-1) she contacted the Claimant's wife and advised if she could get a written statement or provide pay stubs which verified her husband's overtime does not recur on a regular basis, the Department would re-evaluate eligibility. The Claimant did not provide the requested documentation, and no further action was taken.
- 5) The Claimant testified that he does not normally work that much overtime, but they were short handed and he was required to fill in for others. The Claimant's position is that the Department should not have counted all that income in determining eligibility.
- 6) The Department's position is that the overtime was counted because it showed up on both pay stubs.
- 7) The WV Income Maintenance Manual Section 7.10 C states in pertinent part:

#### BUDGETING METHOD

NOTE: The method used to determine monthly countable income is different for WV CHIP. Therefore, when other benefits are received concurrently, budgeting of countable income may differ.

For WV CHIP, the Worker has discretion in trying different income budgeting methods and using the method that is to the applicant's advantage. Since the applicant must be screened for Medicaid, countable income is first determined using the Medicaid budgeting method. If the countable amount results in Medicaid ineligibility, it is used to evaluate the child for WV CHIP eligibility. If the amount is also excessive for WV CHIP, other budgeting methods must be explored. The next method is to use income received or expected to be received in the month of application. Procedures for this method are described in detail in the steps listed below. If this method does not result in WV CHIP eligibility, the Worker must consider other methods such as using annual or quarterly tax returns to arrive at an average monthly amount, or use another time period such as the previous 6 months or the month of application and the previous month.

- 8) The requirements for WV CHIP and WVCHIP Expansion program are outlined in Section 7.14A and E of the West Virginia Income Maintenance Manual. One of these requirements is that when a family's countable income exceeds 200% of the FPL, but is less than or equal to 220% FPL, the child may qualify for CHIP coverage with a premium payment.
- 9) Appendix C, Chapter 7 of the West Virginia Income Maintenance Manual indicates under the 200% Federal Poverty Level guidelines the maximum allowable income for an Assistance Group (AG) of four (4) is \$3534.00, and under the 220% FPL the maximum income is \$3887.00.

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

- 1) Policy provides that Assistance Groups (AG) including four (4) persons is allowed a maximum allowable countable income of \$3534.00 for WV CHIP, and \$3887.00 for WV CHIP Expansion program.
- 2) Policy also dictates that the Department use varying methods of calculating countable income for WV CHIP. Policy is clear in that before denying eligibility the Department must consider other methods such as using annual or quarterly tax returns to arrive at an average monthly amount, or use another time period such as the previous six (6) months or the month of application and the previous month.
- 3) The Department used only one method of determining eligibility for WV CHIP for this household, and failed to explore the other options. They clearly failed to follow policy in the calculation of countable income in this case.

4) The termination of the WV CHIP Medicaid case is incorrect.

**IX. DECISION:**

It is the finding of the State Hearing Officer that the Department is **reversed** in the decision to terminate the claimant's eligibility for WV CHIP and WVCHIP Expansion medical coverage. I direct that the Department recalculate the Claimant's eligibility for the coverage utilizing all options available according to policy.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 4th Day of June 2008**

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**Cheryl Henson  
State Hearing Officer**