



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

October 21, 2008

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 20, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to deny your WV Children's Health Insurance Program (CHIP) application due to your eligibility for a state health insurance plan.

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: Children who are eligible for a state health insurance plan are not eligible for WV CHIP (WV Income Maintenance Manual § 7.14).

The information submitted at your hearing revealed that your children are eligible for state health insurance coverage based on your status as a state employee.

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny your WV CHIP application based on the eligibility of state health insurance.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

Cc: Erika Young, Chairman, Board of Review
Fred Burns, Economic Service Supervisor

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

_____,

Claimant,

v.

Action Number: 08-BOR-2243

**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 October 20, 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 October 20, 2008 on a timely appeal, filed September 30, 2008.

II. PROGRAM PURPOSE:

The Program entitled WV Children's Health Insurance Program 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
Fred Burns, Economic Service Supervisor

Presiding at the Hearing was Kristi Logan, 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's denial of Claimant's WV CHIP application is correct.

V. APPLICABLE POLICY:


WV Income Maintenance Manual § 7.14

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV Income Maintenance Manual § 7.1
- D-2 WV Income Maintenance Manual § 7.9
- D-3 WV Income Maintenance Manual § 7.14
- D-4 Notification Letter dated September 4, 2008

Claimants' Exhibits:

- C-1 Paystubs for Claimant from 

VII. FINDINGS OF FACT:

- 1) A Qualified Child Medicaid review form dated August 15, 2008 for Claimant's children was processed on September 3, 2008. A notification letter dated September 4, 2008 was issued which read in part (D-4):

Your Qualified Child Medicaid will stop. You will not receive this benefit after September 2008. Income is more than the net income limit for you to receive benefits.

Your 8/15/08 application for WV Children's Health Insurance Plan (CHIP) has been denied. You are eligible for a State Insurance Plan. Your current health insurance plan does not qualify you for WV CHIP coverage based on the acceptable health insurance plans outlined by the WV CHIP board.

- 2) Claimant testified that he originally faxed the Medicaid review form to the local office on August 5, 2008 and then mailed the original. Claimant sent in his paystubs for June 30 and July 16, 2008 with the review form. He received a phone call from a caseworker stating the fax was illegible and he would need to send in the original. Claimant dropped off another application at the local office on August 15, 2008.

Claimant stated his earned income at [REDACTED] is the household's only income. This income is well below the WV CHIP income guidelines and felt his children should qualify for the program. Claimant is a state employee and has state health insurance coverage on the entire family.

Claimant does receive regular overtime but stated his hours decreased when he started back to school in August. He stated he had to turn in additional paystubs for July 31 and August 15, 2008 since the local office failed to use application he had faxed in on August 5, 2008. Claimant presented into evidence his paystubs from June 30 – October 16, 2008 (C-1).

3) WV Income Maintenance Manual § 7.14 states:

A child is eligible as a WV CHIP child, when all of the following conditions are met:

- The child is not yet age 19, regardless of school attendance or course completion date.
- Countable family income, determined according to Section 7.10, is equal to or less than 200% FPL.
- The child is not an inmate of a public institution.
- The child is not a patient in an institution for mental diseases.
- The child meets the Medicaid citizenship and alien age requirements found in Chapter 18.
- At the time of application or redetermination, the child is not financially eligible for any Medicaid coverage group.
- 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 is 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.

4) WV Income Maintenance Manual § 10 Appendix A states:

Income Limits for Qualified Child Medicaid for 6 in the Assistance Group:
\$2367

Income Limits for WV CHIP for 6 in the Assistance Group: \$4734

VIII. CONCLUSIONS OF LAW:

- 1) Claimant's household income is calculated at \$3127.28 monthly (July 31, 2008 \$1566.35 and August 15, 2008 \$1560.89). This income is excessive for Claimant's children to continue receiving Qualified Child Medicaid. Had the local office used Claimant's faxed application dated August 5, 2008, his income would have been calculated as \$2679.06 monthly based on paystubs for June 30, 2008 and July 16, 2008. This income is also excessive for Qualified Child Medicaid.
- 2) Claimant's household income is under the income limits for WV CHIP. However, as dictated in policy, a child is eligible for WV CHIP if that child is not eligible for a state health insurance plan. Claimant's children are covered under a state health insurance plan.
- 3) Claimant's children do not qualify for WV CHIP based on their eligibility for a state health insurance plan.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 21st Day of October, 2008.

**Kristi Logan
State Hearing Officer**