



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 28, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 18, 2008. Your hearing request was based on the Department of Health and Human Resources' actions to terminate your daughter's Continuously Eligible Newborn Medicaid and deny medical coverage under the West Virginia 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 Medicaid and West Virginia CHIP is based on current policy and regulations. Some of these regulations state as follows: The income of persons in the WV CHIP income group is added together and compared to the income limit for the number of persons in the needs group. If the income is equal to or less than the income limit, WV CHIP coverage is approved for the individual in the assistance group. A child who receives Medicaid as a Continuously Eligible Newborn remains eligible until he/she reaches age one (1), provided all other eligibility factors are met. (West Virginia Income Maintenance Manual Sections 7.9 and 16.5)

Information submitted at your hearing reveals that your daughter turned one (1) year old in December 2007 and her Medicaid coverage was terminated. Information also reveals that your countable household income is excessive for the WV CHIP Program based on a three-person needs group.

It is the decision of the State Hearing Officer to **uphold** the actions of the Department to terminate Medicaid benefits based on age of the child and deny WV CHIP benefits due to excessive income.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Jeremy Davis, ESW, DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-2709

**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 March 28, 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 March 18, 2008 on a timely appeal filed December 21, 2007.

It should be noted that Continuously Eligible Newborn Medicaid coverage has been continued pending a hearing decision.

II. PROGRAM PURPOSE:

The 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services is responsible for development of regulations to implement Federal and State requirements for the program. The Department of Health and Human Resources processes claims for reimbursements to providers participating in the program.

The program entitled WV CHIP 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
Jeremy Davis, Economic Service Worker, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 was correct in its decisions to terminate Medicaid and deny West Virginia CHIP benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 1.12, 6.3, 7.9, 7.10, 16.5 and Chapter 10, Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 IG-BR-29 Hearing/Grievance Record Information
- D-2 Notices of Decision dated December 19, 2007 and December 26, 2007
- D-3 Copy of Rapids calendar for December, 2007
- D-4 WV CHIP eligibility information from INROADS
- D-5 West Virginia Income Maintenance Manual Section 1.2, B, 2
- D-6 West Virginia Income Maintenance Manual Section 7.10
- D-7 INROADS application/redetermination form
- D-8 Letter from WV CHIP Program
- D-9 Department summary

VII. FINDINGS OF FACT:

- 1) The Claimant's daughter turned one (1) year old on December 11, 2007 and her Continuously Eligible Newborn Medicaid coverage was scheduled to close as of December 31, 2007. The Claimant had submitted a redetermination/application form (D-7) for Medicaid and/or the West Virginia Children's Health Insurance Program (WV CHIP) via the INROADS (internet application) system on November 8, 2007. The Economic Service Worker testified that INROADS provides WV CHIP income guidelines (D-4) for applicants.

- 2) The Claimant was notified of the Medicaid benefit termination via a Notice of Decision (D-2) dated December 19, 2007. This notice informed the Claimant that her daughter's Medicaid benefits would end in December 2007 because she failed to complete a redetermination. The Economic Service Worker testified that the Notice of Decision was sent automatically through the Department's RAPIDS computer system on the adverse action deadline date. The worker testified that, although the Claimant had completed her redetermination in a timely manner, the review form was not logged into the computer system until December 20, 2007 due to a delay by the Department. *(It should be noted that Exhibit D-3, a Rapids computer system calendar, shows that adverse action deadline was on December 18, 2007, however the December 19, 2007 letter also provides 13 days notice as policy states the 13-day adverse action period begins with the date shown on the notification).*
- 3) On December 21, 2007, the worker spoke to the Claimant and processed the redetermination, explaining that the Claimant's household income exceeded income guidelines for both Medicaid and WV CHIP. The worker testified that countable household income totaled \$3,415.54 and the income limit for a family of three for WV CHIP is \$3,227. *(It should be noted, however, that West Virginia Income Maintenance Manual Chapter 10, Appendix A lists the income limit for a family of three for WV CHIP coverage as \$2,862 per month).*
- 4) The Claimant was notified of denial of West Virginia CHIP benefits in a December 26, 2007 Notice of Decision (D-2). This letter states, in part:

ACTION: Your 11/08/07 application for WV Children's Health Insurance Program (WV CHIP) has been DENIED.

REASON: Income is more than the net income limit for you to receive benefits.
- 5) The Claimant did not dispute the Department's income calculation, but testified that she believes the Medicaid/WV CHIP system is flawed because she was not provided an adequate amount of time in which to add her daughter to the family's Blue Cross/Blue Shield health insurance plan. She indicated that, although she had completed her redetermination form on November 8, 2007, she did not learn until December 21, 2007 about her daughter's ineligibility for alternative medical benefits through the Department. This delay did not allow her sufficient time to add her daughter to the family's health insurance plan to avoid a lapse in coverage. The Claimant testified that families should receive up to 30 days notice from the Department if their medical benefits end, contending that such notice would allow parents sufficient time to secure alternative coverage for their children. Since the Claimant did not learn of her WV CHIP ineligibility until December 21, 2007, she stated that she was only provided with three working days in which to secure insurance coverage for her daughter.
- 6) West Virginia Income Maintenance Manual Section 7.9 states that the income of persons in the income group is added together and compared to the income limit for the number of persons in the needs group. If the income is equal to or less than the income limit, WV CHIP coverage is approved for the person in the assistance group.

- 7) West Virginia Income Maintenance Manual Section 7.10, F (D-6) states that the Federal Poverty Level (200 percent) for the number of people in the needs group is used. If countable income is equal to or less than the maximum income levels, the child is income eligible as a WV CHIP child.
- 8) West Virginia Income Maintenance Manual Section 10, Appendix A states that the Federal Poverty Level (200 percent) for a three-person needs group is \$2,862 (effective January 1, 2008).
- 9) West Virginia Income Maintenance Manual Sections 6.3, D, 1 and 6.3, D, 2:

Situations Requiring Advance Notice

A client must receive advance notice in all situations involving adverse actions except those described in Section 6.3, C, 2. The advance notice requirement is that notification be mailed to the client at least 13 days prior to the first day of the month in which the benefits are affected. The date on the notice must be the date it is mailed.

Timing Of Worker Action

a. Beginning and Ending of the Advance Notice Period

The 13-day advance notice period begins with the date shown on the notification letter. It ends after the 13th calendar day has elapsed.

- 10) West Virginia Income Maintenance Manual Section 16.5, I states that a child is eligible for Continuously Eligible Newborn coverage until he/she reaches the age of one (1), provided that all other eligibility factors are met.
- 11) West Virginia Income Maintenance Manual Section 1.12 states:

NOTE: The redetermination for the CEN child is scheduled in the month before the month the child becomes one year old to ensure that the child is evaluated for all coverage groups. Under no circumstances must the child who meets the definition of a CEN be terminated before the end of the 12th month. See Chapter 16.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that a child is eligible for Continuously Eligible Newborn Medicaid until he/she reaches the age of one (1), provided that all other eligibility factors are met. A recipient must receive 13 days adverse action notice prior to the termination of benefits.
- 2) The Claimant's daughter reached age one (1) in December 2007 and the Claimant completed a redetermination form in order to be evaluated for alternative types of medical coverage. Because the redetermination form was not processed in a timely manner by the Department, the Claimant was sent a 13-day adverse action letter informing her that Medicaid would close in December 2007 based on failure to complete a review.

The Claimant contended that Medicaid recipients should be afforded ample time in which to secure alternate coverage when their benefits end, and she raised valid concerns in regard to the timeliness of the Department's processing of her case. Policy dictates, however, that the Department is only required to provide 13 days advance notice for case closures. This period allows individuals an opportunity for due process should they wish to appeal the Department's action.

While the December 19, 2007 termination notice met adverse action requirements, it failed to specify the correct reason for the case closure. Incorrect language in the notice, however, did not affect the Claimant's due process rights as evidenced by her appeal and request for continued Medicaid benefits. The Department subsequently sent the Claimant a letter indicating that she was ineligible for WV CHIP benefits.

- 3) Policy states that the WV CHIP income limit (200 percent of the Federal Poverty Level) for a needs group of three is \$2,862.
- 4) The Claimant's countable household income is \$3,415.54.
- 5) Household income is excessive for the WV CHIP Program.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Agency to terminate Medicaid benefits and deny eligibility for WV CHIP.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 28th Day of March 2008.

**Pamela L. Hinzman
State Hearing Officer**