



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

March 17, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 3, 2009. Your hearing request was based on the Department of Health and Human Resources' action to deny your son 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: For WVCHIP, the worker has discretion in trying different income budgeting methods and using the method that is to the applicant's advantage. If the countable income is excessive for WVCHIP, other budgeting methods must be explored. The first method is to use income received or expected to be received in the month of application. If this method does not result in WVCHIP 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. (WV Income Maintenance Manual Section 7.10C)

The information which was submitted at your hearing revealed that the Department calculated your family's total countable income as \$3328.50 by counting income received within the last thirty days. This amount exceeded the income guidelines for a family of three (3); however, the Department failed to consider other budgeting methods when arriving at an average monthly amount, and, as a result, incorrectly denied your application.

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

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Alisha Jarrell, [REDACTED] DHHR

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

-----,

Claimant,

v.

Action Number: 09-BOR-642

**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 3, 2009 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 3, 2009 on a timely appeal, filed December 29, 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 husband
-----, Claimant's friend

Alisha Jarrell, Department Representative
Kathy Lawrence, Supervisor, observing

Presiding at the hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

It should be noted that both parties participated by Videoconference from the [REDACTED] DHHR Office.

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 due to excessive income.

V. APPLICABLE POLICY:

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

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary dated February 25, 2009
- D-2 Hearing Request Form and Notification letter dated December 4, 2008
- D-3 Copy of IG-BR-29 form
- D-4 Notification letter dated February 10, 2009
- D-5 WV CHIP application dated November 7, 2008
- D-6 Notification letter dated December 4, 2008
- D-7 Income Verification and Verification Checklist
- D-8 Case Comments
- D-9 WV Income Maintenance Manual Section 7.10

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant submitted an application to the Department for WV CHIP Medicaid (D-5) on November 7, 2008 reporting a household of three (3) and that her husband was employed. The Department sent the Claimant a Verification Checklist (D-7) requesting all pay stubs from October 8, 2008 to November 6, 2008. The Claimant provided the Department with pay stubs (D-7) for pay dates October 17, 1008, October 31, 2008, November 14, 2008, November 28, 2008, December 22, 2008, and December 24, 2008. The December 22, 2008 pay stub was listed as a "Christmas Bonus".
- 2) The Department stated they calculated the household's countable income by using the husband's October 17, 2008 pay stub (D-7) in the amount of \$1590.00, and October 31, 2008 pay stub (D-7) in the amount of \$1590.00 for a total of \$3180.00. The Department indicated that this income included overtime which was considered since it appeared to be recurring. The Department determined (D-9) the total countable income was \$3328.50. ($\1590×2.15 [since the income was received bi-weekly] = \$3418.50 - the \$90.00 work deduction).
- 3) The Department provided that the countable income of \$3328.50 was compared to the appropriate income limit of \$2934.00 (D-6) and found to be excessive. The Department did not consider other methods of calculating income 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 months or the month of application and the previous month.
- 4) The Department sent the Claimant a denial notice (D-2) for WVCHIP Medicaid on December 4, 2008. The notice included the following:

ACTION: Your 11/07/08 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.

The following individuals are ineligible.

[REDACTED]

- 5) The Department contends the Claimant is not eligible since the income they used to determine eligibility was excessive.
- 6) The Claimant contends that it is her understanding from research on the internet that if the family's income is less than \$30,000.00 annually they would qualify. She stated their yearly income is about \$22,000.00 to \$23,000.00 annually, which is well under this amount. The Claimant's husband added that he is a paramedic, and his work varies. He stated that the income he earned in October 2008 was not representative of his usual earnings.
- 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) 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 three (3) is \$2934.00.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that an Assistance Group (AG) including three (3) persons is allowed a maximum allowable countable income of \$2934.00 for WV CHIP.
- 2) Policy is clear in that before denying eligibility the Department must consider other methods of income calculations such as using annual or quarterly tax returns to arrive at an average monthly amount, or using 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 calculating countable income 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 denial of the WV CHIP Medicaid application is incorrect.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is **reversed** in the decision to deny the claimant's eligibility for WV CHIP Medicaid.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th Day of March, 2009

**Cheryl Henson
State Hearing Officer**