



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

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D., Ph.D.  
Cabinet Secretary

October 27, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 25, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate WV Children's Health Insurance Program (CHIP) benefits.

In arriving at a decision, the State Hearings 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 WV CHIP is based on current policy and regulations. These regulations provide that in order to qualify for WV CHIP, the gross countable income cannot exceed 300% of the Federal Poverty Level for the assistance group's size (WV Income Maintenance Manual § 7.10 E).

The information submitted at your hearing revealed that the gross income of your assistance group exceeds the allowable limit for you to continue receiving WV CHIP benefits.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to terminate WV CHIP benefits.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Fred Burns, Economic Service Supervisor

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

**IN RE:** -----,

**Claimant,**

**v.**

**ACTION NO.: 11-BOR-1957**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Respondents,**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on October 25, 2011 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 a timely appeal, filed September 14, 2011.

It should be noted here that the Claimant's benefits under the WV Children's Health Insurance Program have continued pending a decision.

**II. PROGRAM PURPOSE:**

The program entitled WV Children's Health Insurance Program is administered by the West Virginia Department of Health and Human Resources.

The WV Children's Health Insurance Program (WV CHIP), is administered through the Children's Health Insurance Agency within the Department of Administration. WV CHIP is a means-tested health insurance program for children from birth to age 19 for which the Department determines eligibility and provides information to WV CHIP for management.

**III. PARTICIPANTS:**

-----, Claimant  
Fred Burns, Economic Service Supervisor

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department's proposal to terminate Claimant's WV CHIP benefits is correct.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 7.9, 7.10 and Chapter 10 Appendix A

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

**Department's Exhibits:**

- D-1 Notification Letter dated September 7, 2011
- D-2 Verification Checklist dated August 24, 2011 and Paystubs
- D-3 Detailed Earned Income Screen (AFDE) and Unearned Income Screen (AFEI) from RAPIDS Computer System
- D-4 WV Income Maintenance Manual § 7.10 and Chapter 10 Appendix A

**VII. FINDINGS OF FACT:**

- 1) Claimant's WV CHIP benefits were due for review in August 2011. A termination letter was issued by the Department on September 7, 2011 which reads in pertinent part (D-1):

Your 8/01/11 application for WV Children's Health Insurance Program (WV CHIP) has been DENIED.

Income is more than the gross income limit for you to receive benefits.

- 2) Fred Burns, Economic Service Supervisor, testified to the income that was used in determining Claimant's eligibility for CHIP. Claimant provided paystubs for herself for August 2, 2011 and August 16, 2011 for \$1574.60 each. This income was converted to a monthly amount of \$3385.18 using the multiplier of 2.15 as Claimant is paid bi-weekly (D-2).

Mr. Burns stated Claimant's husband receives Social Security of \$1995.50 monthly. Claimant's two (2) minor children each receive Social Security of \$498 monthly. Mr. Burns explained that one child's income does not count against another sibling so the

assistance group's gross countable income including each child is \$5878.68 per month. Mr. Burns testified the gross income limit for WV CHIP for an assistance group of four (4) is \$5588 (D-3 and D-4).

- 3) Claimant testified that she has three (3) children that she supports and all three should be considered in determining their income level for WV CHIP. Claimant stated her son [REDACTED] is a 19 year old college student whom she still supports financially.

Claimant stated that she can only afford COBRA health insurance benefits for herself which costs \$338.12 a month. Family COBRA coverage is \$1880 a month, which is more than one (1) of her paychecks. Claimant stated she already pays for vision coverage for \$13.70 a month and dental coverage for \$92.30 a month. Her COBRA benefits run out in February 2012.

Claimant stated her children have allergies and are on several prescription medications. Claimant stated she cannot afford the cost of medical care for her children without WV CHIP.

- 4) WV Income Maintenance Manual § 7.9 C states:

Countable income is compared to the income limit for the total number of persons who fall into any of the following groups. The Needs Groups must include the following persons:

- The WV CHIP child
- The mother of the WV CHIP child, if living in the home
- The legal father of the WV CHIP child, if living in the home
- The legal spouse of the WV CHIP child, if living in the home
- The child of the WV CHIP child, if living in the home.
- The WV CHIP child's blood-related or adopted siblings who are under age 19, or who, if they receive Medicaid, receive it as dependent children.
- The expected birth, or births when a multiple birth is expected, that is a blood-related sibling of the child.
- The expected birth, or births when a multiple birth is expected, when the WV CHIP child is pregnant.

- 5) WV Income Maintenance Manual § 7.10 C states:

Income from the month of application is used to determine eligibility for the entire 12-month period of continuous eligibility. The following steps are used to determine the countable income for the continuous eligibility period.

Step 1: Identify each income source from which the client has already received income in the month of application.

Step 2: Identify each income source from which the client reasonably expects to receive income in the month of application.

Step 3: Determine the amount and frequency of receipt from all income sources from Steps 1 and 2 above.

Step 4: Use the following chart to determine the monthly amount of income from each non-excluded source.

Conversion is accomplished by multiplying an actual or average amount as follows:

- Weekly amount x 4.3
- Bi-weekly amount x 2.15
- Semi-monthly amount x 2

6) WV Income Maintenance Manual § 7.10 E states:

A WV CHIP Premium Expansion's IG [income group] must meet a gross income test with gross income of less than or equal to 300% FPL before any income disregards and/or deductions are applied.

7) WV Income Maintenance Manual Chapter 10 Appendix A states:

300% Federal Poverty Level for an Assistance Group of 4: \$5588

### VIII. CONCLUSIONS OF LAW:

- 1) Policy allows only the legal parents and siblings under age 19 living in the home to be counted in the needs group for determining eligibility for WV CHIP. Claimant's 19 year old son is excluded in the eligibility determination of his minor siblings.
- 2) In order to qualify for the WV CHIP Premium Expansion Program, the gross income of the needs group cannot exceed 300% of the Federal Poverty Level. The countable income for Claimant's needs group exceeds the allowable limit for her to continue receiving WV CHIP benefits.

### IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to terminate Claimant's WV CHIP benefits.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 27<sup>th</sup> day of October 2011.**

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**Kristi Logan**  
**State Hearing Officer**