



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

Earl Ray Tomblin
Governor

Board of Review
2699 Park Avenue, Suite 100
Huntington, West Virginia 25704

Rocco S. Fucillo
Cabinet Secretary

August 24, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your child's hearing held August 7, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to deny West Virginia Children's Health Insurance Program (WV CHIP) benefits.

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.

Medicaid policy requires several conditions to be met for a child to be eligible for WV CHIP. One of these requirements is that a child is not eligible for a state group health plan based on a family member's employment with a public agency that has access to a state group health plan such as, but not limited to, the Public Employees Insurance Agency (PEIA). (West Virginia Income Maintenance Manual, Chapter 7.14.A)

Information submitted at your hearing revealed that your child is covered by PEIA.

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

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Cory Collins, Department Representative

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1556

**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 August 24, 2012, for -----. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This Fair Hearing was convened on August 7, 2012, on a timely appeal filed June 22, 2012.

II. PROGRAM PURPOSE:

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
Cory Collins, Department representative

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct to deny WV CHIP benefits to the Claimant.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 7.14.A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Denial letter dated June 26, 2012

D-2 West Virginia Income Maintenance Manual, Chapter 7.14.A

VII. FINDINGS OF FACT:

- 1) Cory Collins, representative for the West Virginia Department of Health and Human Resources (Department), testified that the Claimant's child was receiving a type of Medicaid coverage intended for children of a particular age group. Upon exceeding that age, the Claimant's child was automatically considered for other health insurance programs administered by the Department, and was denied for WV CHIP. Mr. Collins testified that the Department denied WV CHIP based on information that the Claimant's child has PEIA coverage. A notice (Exhibit D-1) to the Claimant explained the reason for denial as follows, in pertinent part:

Your application for the WV CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP) has been denied.

Here is why:

Child has private health insurance. Child is covered by PEIA health insurance [sic]

- 2) The West Virginia Income Maintenance Manual, Chapter 7.14.A, outlines conditions for WV CHIP eligibility as follows, in pertinent part (emphasis added):

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. Emancipation of the child, by marriage or other means,

does not impact eligibility as long as the individual falls in the eligible age range. A child does not lose WV CHIP eligibility due to reaching age 19 until the end of the month in which he attains that age. A child who attains age 19 on the first day of the month retains eligibility until the end of that month.

NOTE: If a child is receiving inpatient services on the date he would lose eligibility due to reaching the maximum age, eligibility must continue until the child is discharged.

- Net family income, determined according to Section 7.10, is less than or equal to 200% FPL. See Appendix A of Chapter 10 for the maximum income limits.

NOTE: When a WV CHIP IG's net income exceeds 200% FPL, but the gross income is less than or equal to 300% FPL, the child is evaluated for WV CHIP Premium Expansion. See WV CHIP Premium Expansion below.

- 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 alienage 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, the parent(s), or other adult with whom the child lives may not choose for the child to receive WV CHIP instead of Medicaid. However, the child/parent(s)/adult(s) may choose at any time to refuse Medicaid coverage.

NOTE: A child who is otherwise eligible for Medicaid, but who fails to meet a non-financial Medicaid eligibility requirement such as documentation of citizenship or cooperation in pursuing medical support, does not qualify for WV CHIP.

The child is not eligible for a state group health plan based on a family member's employment with a public agency that has access to a state health plan.

NOTE: This requirement does not apply if the public agency contributes less than \$10 more per family, per month toward the cost of dependent coverage, than their contribution toward the cost of covering the employee only.

EXAMPLE: A client has PEIA through his employment at a county agency. The employer pays \$25 toward the cost of his insurance. If he adds his son to his insurance, his employer pays \$30 (\$25 for him and \$5 additional for family coverage) toward the cost of his family insurance. The insurance is available and his son is eligible, but the employer pays less than \$10 more to add the child than they pay for the client's insurance alone. If otherwise eligible, the child is eligible for WV CHIP coverage.

For WV CHIP purposes, a public agency is defined as having operations funded by state revenues that are in part, used to pay an employer's share of an employee's health care in a state health plan such as, but not limited to, PEIA.

- 3) The Claimant testified that he is employed with a public agency and that, to his knowledge, his child is covered by health insurance through PEIA.

VIII. CONCLUSION OF LAW:

WV CHIP policy does not allow program eligibility for a child when a family member of that child is employed with a public agency that would allow the child coverage through a state health plan. The Claimant is employed with such an agency and his child has coverage precluding approval for WV CHIP benefits. The Department was correct in its decision to deny WV CHIP to the Claimant.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of August 2012.

**Todd Thornton
State Hearing Officer**