



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
235 Barrett Street
Grafton, WV 26354**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

June 27, 2005

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 19, 2005. Your hearing request was based on the Department of Health and Human Resources' denial of your application for benefits and services under the Children with Special Health Care Needs Program (CSHCN).

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 the Children with Special Health Care Needs Program (CSHCN) is based on current policy and regulations. Some of these regulations state as follows: Program income limits are based on the allowable percentage (185%) of the current Federal poverty guidelines, updated annually [CSHCN Manual Chapter 4, A, 1, (d),(3)].

The information which was submitted at your hearing revealed that your countable household income exceeds the current maximum allowable .

It is the decision of the State Hearings Officer to uphold the determination of the Agency to deny your CSHCN application as set forth in the March 3, 2005 notification.

Sincerely,

Ron Anglin
State Hearings Examiner
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Debbie Lindell, CSHCN

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

_____,

Claimant,

v.

Action Number: 05-BOR-5567

**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 June 27, 2005 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 May 19, 2005 on a timely appeal, filed April 19, 2005.

II. PROGRAM PURPOSE:

The Program entitled Children with Special Health Care Needs Program (CSHCN) is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

Services for Children with Special Health Care Needs are extended to those children for whom adequate care, treatment and rehabilitation are not available from other than public resources. The Public Welfare Law permits the Program to determine administratively the conditions which will be included in the scope of the Program, such determination to be made on the basis of available funds and facilities. The Program is responsible for location, diagnosis and treatment of children between the age of 0-21 who meet pre-determined medical and financial requirements. Treatment is provided by Board certified specialist.

III. PARTICIPANTS:

Presiding at the Hearing was Ron Anglin, State Hearing Examiner and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the agency was in compliance with policy in denial of the claimant's Children with Special Health Care Needs Program application?

V. APPLICABLE POLICY:

CSHCN Manual Chapter 4,A, 1, d,3.

Office of Maternal, Child and Family Health- Allowable Family Income Eff. 4/01/2004

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

E-1- CSHCN Policy- Chapter 4

E-2- Allowable Family Income Chart, Eff 4/1/04

E-3- Notification 3/3/05

E-4- Intake Form 3/7/05

C-1- CSHCN Policy Chapter III page 6

C-2- Notification, WVMI, 2/14/05

VII. FINDINGS OF FACT:

- 1) A hearing requested 4/19/05 by the claimant in response to March 3, 2005 denial of the claimant's application for CSHCN benefits. Hearing scheduled for March 13 then rescheduled at claimant's request and convened March 19, 2005
- 2) The claimant's application for the CSHCN was denied based in household income in excess of current standards.
- 3) Agreed testimony confirmed that there are 3 persons in the household and household income is approximately \$6057 monthly.

VIII. CONCLUSIONS OF LAW:

- 1) Policy reveals that CSHCN eligibility entails an income test which is based on a percentage of the Federal poverty level (185%). The most recent FPL standards reveal that annual household income for a 3 person household may not exceed \$2416 monthly or \$28,990 annually to be eligible for the program. Evidence clearly establishes that the claimant's countable income is excessive for purposes of program eligibility.

IX. DECISION:

The Agency's determination is **upheld**.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 27th Day of June, 2005.

RON ANGLIN
State Hearing Examiner