



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Office of Inspector General

Board of Review

PO Box 29

Grafton WV 26354

December 18, 2006

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

For _____

Dear Mr. and Mrs. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 8, 2006. Your hearing request was based on the Department of Health and Human Resources' action to discontinue medical coverage under the Children with Special Health Care Needs Program.

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 Department's Children with Special Health Care Needs Program is determined based on current regulations. Families with income of 200% of the Federal Poverty Level or below are financial eligible for services through the Children with Special Health Care Needs program. (Children with Special Health Care Needs Policy Manual, 1/27/06)

The information which was submitted at the hearing revealed that your monthly countable income exceeds the current standard used to establish financial eligibility for the *Children with Special Health Care Needs Program*.

It is the decision of the State Hearing Officer to **uphold** the action of the agency as set forth in the August 18, 2006 notification.

Sincerely

Ron Anglin
State Hearing Examiner
Member, State Board of Review

cc: Board of Review
Debbie Lindell, LSW, Children with Special Health Care Needs Program

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

Claimant,

v.

Action Number 06-BOR-3081

West Virginia Department of Health & Human Resources.
Respondent.

SUMMARY AND DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Examiner resulting from a fair hearing concluded on December 18, 2006 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 November 8, 2006 on a timely appeal filed September 12, 2006.

II. PROGRAM PURPOSE:

The Program entitled Children with Special Health Care Needs 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 specialists.

III. PARTICIPANTS:

_____, claimant's father

_____, claimant's mother

Debbie Lindell, LSW, Policy Coordinator, CSHCN (by phone)

Robin Simmons, RN, Director of Nursing CSHCN (by phone)

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

IV. QUESTION TO BE DECIDED:

Was the agency correct in closure if the claimant's Children with Special Health Care Needs case based on income in excess of the current standard.

V. APPLICABLE POLICY:

Children with Special Care Needs Policy Manual, Policy Update, January 27, 2006

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Agency's Exhibits:

E-1- Memo – to file, [REDACTED] 9/15/06

E-2- Letter from Mrs. [REDACTED] to [REDACTED], 9/8/06

E-3- Notification of closure, 8/18/06

E-4- Policy- 1/27/06 and Income guidelines, 3/1/06

E-5- Eligibility review, 7/28/06

E-6- Notification, Office of Maternal, Child and Family Health, 6/5/06

VII. FINDINGS OF FACT:

1) The claimant was informed in a notification dated August 18, 2006 that his Children with Special Health Care Needs case was being closed based on countable income. The claimant requested a hearing September 12, 2006. This request was received by this examiner October 4, 2006 and a hearing was convened November 8, 2006.

2) During the hearing Exhibits as noted in Section VI above were submitted.

3) Testimony was heard from the individuals listed in Section III above. All persons giving testimony were placed under oath.

4) There is no dispute as to the facts of the case. The claimants' income from earnings total approx. \$7953.16 monthly and there are 4 persons in the household (from E-5)

5) Children with Special Care Needs Policy Manual, Policy Update, January 27, 2006 states in part: Families with income of 200% of the Federal Poverty Level or below are financially eligible for services through the CSHCN Program.

6) Children with Special Care Needs Policy Manual Appendix C reveals that 200% of the FPL for a 4 person household is \$3334.00 monthly or \$40,000.00 annually.

VIII. CONCLUSIONS OF LAW:

1) Policy directs that a child must be financially eligible for participation in the CSHCN program. Evidence reveals the family's earnings total approximately \$7900.00 monthly.

2) The family's income may not exceed 200% of the Federal Poverty Level. 200% of the Federal Poverty Level for 4 persons is \$3334 monthly. Evidence reveals that the family's countable monthly income exceeds the current standard by a substantial amount.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the determination of the Agency in finding the claimant ineligible for the Children with Special Care Needs Program. The family's countable monthly income clearly exceeds the current maximum allowable.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 18th Day of December, 2006.

Ron Anglin
State Hearing Examiner

CLAIMANT’S RECOURSE TO ADMINISTRATIVE HEARING DECISION
For
Public Assistance Hearings,
Administrative Disqualification Hearings, and
Child Support Enforcement Hearings

A. CIRCUIT COURT

Upon a decision of a State Hearing Officer, the claimant will be advised he may bring a petition in the Circuit Court of Kanawha County within four months (4) from the date of the hearing decision.

The Court may grant an appeal and may determine anew all questions submitted to it on appeal from the decision or determination of the State Hearing Officer. In such appeals a certified copy of the hearing determination or decision is admissible or may constitute prima facie evidence of the hearing determination or decision. Furthermore, the decision of the circuit Court may be appealed by the client or petitioner to the Supreme Court of Appeals of the State of West Virginia.

B. THE UNITED STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the United States Department of health and Human Services, Washington, D.C. 20201.

C. THE UNITED STATE DEPARTMENT OF AGRICULTURE

If you believe you have been discriminated against because of race, color, national origin, age, sex or handicap, write immediately to the Secretary of the Department of Agriculture, Washington, D.C. 20250.