



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

Joe Manchin III
Governor

Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary

May 26, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 14, 2010. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate Qualified Child Medicaid for your daughter.

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 Qualified Child Medicaid program is based on current policy and regulations. These regulations provide that eligibility is determined by comparing the total countable net income, after all allowable deductions, to the AFDC Medicaid Limit for the size of the Needs Group (WV Income Maintenance Manual § 10.10 B).

The information submitted at your hearing revealed that your household's countable net income exceeds the allowable limit for the program.

It is the decision of the State Hearing Officer to **Uphold** the proposal of the Department to terminate your daughter's Qualified Child Medicaid.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
-----, Economic Service Worker

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

-----,

Claimant,

v.

Action Number: 10-BOR-1242

**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 May 14, 2010 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.

It should be noted here that the claimant's benefits under the Qualified Child Medicaid program have continued pending a decision.

II. PROGRAM PURPOSE:

The Program entitled Qualified Child Medicaid is administered by the West Virginia Department of Health & Human Resources.

"Qualified Child" Medicaid provides coverage to children under the age of 19 whose family income is at or below 100% of the Federal Poverty Level and who are not eligible for SSI Related Medicaid.

III. PARTICIPANTS:

-----, Claimant

-----, Witness for Claimant

-----, Economic Service Worker

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 Qualified Child Medicaid benefits is correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 10.10 B and Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Hearing Request received April 27, 2010
- D-3 Hearing/Grievance Record Information
- D-4 Hearing Appointment Letter
- D-5 WV Health Care Coverage for Kids and Expectant Moms Renewal Application dated April 5, 2010
- D-6 WV Health Care Coverage for Kids and Expectant Moms Renewal Application dated April 5, 2010 Cover Letter
- D-7 Termination Letter dated April 9, 2010
- D-8 Denial Letter dated April 19, 2010
- D-9 Paystubs from [REDACTED] Inc. and [REDACTED]
- D-10 Correspondence from -----
- D-11 WV Income Maintenance Manual Chapter 10 Appendix A
- D-12 WV Income Maintenance Manual Chapter 7 Appendix C
- D-13 WV Income Maintenance Manual § 9.7
- D-14 WV Income Maintenance Manual § 10.10
- D-15 WV Income Maintenance Manual § 7.14

Claimants' Exhibits:

- C-1 Paystubs from [REDACTED] and [REDACTED]

VII. FINDINGS OF FACT:

- 1) On April 5, 2010 the Department received a review form for Claimant's daughter, -----, Qualified Child Medicaid. A notification letter dated April 9, 2010 was issued by the Department which read in pertinent parts (D-7):

Your Qualified Child Medicaid benefits will stop. You will not receive this benefit after April 2010. Income is more than the income limit for you to receive benefits.

- 2) -----, Claimant's caseworker, testified to the termination of Qualified Child Medicaid. The income used for Claimant in determining eligibility for Qualified Child Medicaid was paystubs for March 12, March 26 and April 9, 2010. Paystubs used for Claimant's husband and father of -----, -----, were for March 5, March 12, March 19, March 26, April 2 and April 9, 2010. -----stated the rental income of \$400 monthly was not used as the income source was ending in April 2010 (D-1, D-9 and D-10).

-----testified that while the review form was received on April 5, 2010 and the thirty (30) day period of consideration would not have included Claimant's and -----paystubs from April 9, 2010, using those paystubs actually lowered the household's averaged income and was to Claimant's advantage. -----advised that Claimant's daughter is eligible for the WV CHIP Premium Expansion program.

- 3) Claimant testified that the overtime that was used in the income calculations is not an accurate reflection of their household's income. Claimant stated she is the manager of Bandy's Inc. and there were several vacant positions at her store. Claimant stated she had to work extra shifts as a result. Once all the positions are filled, she will no longer receive overtime (C-1).

Claimant stated her husband's income varies also. ----- works for a family owned business and does not get paid when he does not work (C-1). They had been receiving \$400 a month rental income from -----mother which ended in April 2010 when she moved out. Claimant stated her mother-in-law watches their children at this time, but expects to start paying child care expenses in the future.

- 4) WV Income Maintenance Manual § 10.10 B states:

Countable income is determined by subtracting allowable deductions and disregards from the total gross non-excluded income. The net monthly countable income must be less than the AFDC Medicaid Limit for the appropriate Needs Group size.

Step 1: Determine the amount of monthly gross non-excluded earned income of the Income Group.

Step 2: Subtract the AFDC Medicaid Standard Work Deduction for each working individual.

Step 3: Subtract the AFDC Medicaid Dependent Care Deduction up to the maximum allowable amounts.

Step 4: Add the gross non-excluded unearned income of the Income Group. This includes the child's countable child support.

Step 5: Determine 100% FPL for the appropriate Needs Group size.

Step 6: Subtract the maximum AFDC Medicaid Limit for the appropriate Needs Group size from the amount arrived at in Step 5, and add \$1.00.

Step 7: Subtract the amount arrived at in Step 6 from the amount arrived at in Step 4.

The remainder is the countable income which is compared to the AFDC Medicaid Limit for the appropriate Needs Group size to determine the QC's [Qualified Child's] eligibility. If the countable income is below the AFDC Medicaid Limit for the appropriate Needs Group size, the child is eligible. If the countable income is equal to or greater than the AFDC Medicaid Limit, the child is not eligible.

VIII. CONCLUSIONS OF LAW:

- 1) The income used to determine eligibility for Qualified Child Medicaid is determined by using a thirty (30) day average of all earned income sources. The thirty (30) day period from the receipt of Claimant's review form is March 6 – April 4, 2010.
- 2) Claimant's paystubs of March 12, 2010 of \$881.65 and March 26, 2010 of \$1054.32 are converted to a monthly average of \$2081.18 ($\$881.65 + 1054.32 = 1935.97$ divided by 2 = 967.99 multiplied by 2.15 = \$2081.18). A monthly averaged income for ----- for is derived from paystubs for March 5, 2010 of \$315, March 12, 2010 of \$280.30, March 19, 2010 \$474.90, March 26, 2010 of \$421.60 and April 2, 2010 of \$358.50, for an average of \$1591.26 (1850.30 divided by 5 = 370.06 multiplied by 4.3). Claimant's household's total gross income is \$3672.44.
- 3) The standard work deduction of \$90 per working individual is applied to the gross income of \$3672.44 leaving a balance of \$3492.44. The AFDC Medicaid Limit of \$312 is subtracted from 100% of the Federal Poverty Level of \$1838 for a total of \$1526 plus \$1 equals \$1527. This amount is then subtracted from the household's countable net income of \$3492.44 totaling \$1965.44. This amount exceeds the AFDC Medicaid Limit of \$312. The household's income is excessive to continue receiving Qualified Child Medicaid.
- 4) While Claimant testified that she does not usually received overtime, Claimant received overtime on all nine (9) paystubs that were submitted at the hearing (C-1). Claimant's testimony indicated her overtime hours would continue until all vacant positions had been filled. The Department correctly calculated Claimant's income using her overtime pay.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to terminate Claimant's Qualified Child Medicaid.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 26th day of May 2010.

**Kristi Logan
State Hearing Officer
Member, Board of Review**