



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Joe Manchin III
Governor

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

January 15, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 3, 2009. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate benefits under the WV Children's Health Insurance Program (WV CHIP).

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 WV CHIP Program is based on current policy and regulations. Some of these regulations state as follows: If the applying household's gross monthly income is equal to or more than 250% of the Federal Poverty Level, that household is ineligible for WV CHIP. (Section 7.14 of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed your gross monthly income is more than 250% of the Federal Poverty Level for your household.

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny your application for the WV CHIP Medicaid program.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Janee Scott, WV DHHR, [REDACTED] Office

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

-----,

Claimant,

v.

Action Number: 09-BOR-1519

**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 January 15, 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 (DHHR). This fair hearing was convened on September 3, 2009 on a timely appeal, filed July 7, 2009.

II. PROGRAM PURPOSE:

Medical coverage under the WV Children's Health Insurance Program (**WV CHIP**) is health insurance administered through the Public Employees Insurance Agency (PEIA) with benefits provided by Acordia National for children from age 1 through age 18. WV CHIP is a means-tested insurance program for which the Department determines eligibility and provides information to PEIA for administration.

III. PARTICIPANTS:

-----, Claimant

-----, Claimant's Representative

Brenda Bailey, WV DHHR, [REDACTED] Office

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in its decision to deny the Claimant's application for the WV Children's Health Insurance Program (WV CHIP) medical insurance coverage due to excessive income.

V. APPLICABLE POLICY:

Chapter 7, sections 10 and 14 and Appendix C, and Chapter 10, sections 11 and 12 and Appendix A of the West Virginia Income Maintenance Manual.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Fair Hearing summary
- D-2 Claimant's application for WV CHIP
- D-3 Verification of income for Claimant's household
- D-4 Notification letter denying Claimant's WV CHIP application, dated June 30, 2009
- D-5 WV Income Maintenance Policy Manual, chapters 7.10, 7.14, 7 Appendix C, 10.11, 10.12, and 10 Appendix A

Claimant's Exhibits:

- C-1 Internet reprint of article from [REDACTED] dated July 28, 2009, entitled, "W. Va. increases income limit for children's health insurance program"

VII. FINDINGS OF FACT:

- 1) The Claimant submitted an application to the [REDACTED] office of the WV DHHR for WV CHIP medical coverage on June 22, 2009 (Exhibit D-2). Claimant reported a three-person household consisting of Claimant, Claimant's spouse, and their child, the individual for whom Claimant filed a WV CHIP application. Income for the family was verified as follows: \$1097.40 per month Social Security for Claimant's spouse; \$327.20 per month Social Security – Spousal benefits for Claimant; \$443.70 per month Social Security – Child benefits for their child; \$654.26 semi-monthly Worker's Compensation benefits for Claimant's spouse (\$1308.52 per month); and \$1078.50 per month Coal Mine Disability (Black Lung) benefits for Claimant's spouse. The total amount of monthly income for the household is \$4255.42.
- 2) On June 30, 200, the Department issued notice of denial to claimant which stated in pertinent part:

ACTION: Your 06/22/09 application for WV Children's Health Insurance Program (WV CHIP) has been denied.

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

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

...

POLICY: WV Income Maintenance Manual Section(s): 7.14,E; 7.10; 10.11; 10.12.

GROSS INCOME TEST:

Gross Earned Income	\$1308.52	Gross Income Limit	\$3815.00
Unearned Income	\$2635.90		
Total Gross Income	\$3944.42		

Note: Total Gross Income above reflects amount of income reported during application. Worker subsequently verified the household monthly income to be \$4255.42, as stated earlier in this document.

- 3) The eligibility determination groups for WV CHIP are defined in WVIMM Section 7.9 as follows:
- A. Assistance group (AG) is defined as the WV CHIP child only.
 - B. Income Group (IG) is defined as the WV CHIP child along with any parent or spouse living with that child.
 - C. Needs group includes those in the IG as well as siblings or children of the WV CHIP child.

The income of the IG is added together and compared to the income limit for the number of persons in the Needs Group.

- 4) Appendix C to Chapter 7 (Rev. 3/09) of the WV IMM contains the income limits for the three enrollment groups for WV CHIP that was in effect at the time of the application. Those limits for a three-person needs group are as follows:

Enrollment Group	Income Limit
WV CHIP with Limited Co-Pays	Net income less than or equal to 150% of the Federal Poverty Level (FPL) or \$2289.
WV CHIP with Full Co-Pays	Net income less than or equal to 200% of the FPL or \$3052.

WV CHIP expansion (Full Co-Pays and premiums)	Gross income less than or equal to 250% of the FPL or \$3815.
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- 5) WVIMM Section 7.10 specifies that net income is calculated by subtracting any allowable deductions from the gross income. Earned income deductions only apply to income from employment, and the only allowable deduction from unearned income is the first \$50 of child support income. The net income for the income group, therefore, is \$4255.42.
- 6) The Claimant testified that the WV CHIP application was on behalf of her and her husband's daughter. The child has dental needs, and Claimant testified that a single tooth extraction would cost her \$217. She testified that private insurance was prohibitively expensive. She did not dispute the facts of the case.
- 7) Claimant's representative submitted evidence, Exhibit C-1, an internet reprint of an article from the July 28, 2009 [REDACTED], entitled, "W. Va. increases income limit for children's health insurance program." This information is irrelevant because the eligibility increases reported in the article had gone into effect in January 2009. The worker who took the application used the increased eligibility amounts in her calculations.

VIII. CONCLUSIONS OF LAW:

- 1) In order for a child to be eligible for WV CHIP, the income from the Income Group cannot exceed 250% of the Federal Poverty Level for the number of people in the Needs Group.
- 2) The Income Group and the Needs Group for the child in this matter both consist of the child and her parents.
- 3) At the time of application, the monthly gross income for the Income Group was \$4255.42, which exceeded \$3815, thus rendering the child ineligible for all levels of WV CHIP.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is **upheld** in its decision to deny the Claimant's application for WV CHIP.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 15th Day of January, 2010.

**Stephen M. Baisden
State Hearing Officer
Member, Board of Review**