



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

April 26, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 17, 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
Henrietta Holman, WV DHHR, [REDACTED] Office

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

-----,

Claimant,

v.

Action Number: 09-BOR-1914

**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 April 26, 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 November 17, 2009 on a timely appeal, filed September 17, 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
Henrietta Holman, WV DHHR, [REDACTED] Office

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

The Hearings Examiner placed both participants under oath at the beginning of the hearing.

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 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

VII. FINDINGS OF FACT:

- 1) The Claimant submitted an application to the [REDACTED] office of the WV DHHR for WV CHIP medical coverage on August 27, 2009 (Exhibit D-2). Claimant reported a three-person assistance group consisting of Claimant, Claimant's spouse, and their child, the individual for whom Claimant filed a WV CHIP application. Also in the household was a son who had turned 19 years of age and thus was no longer considered part of the needs group for the Claimant's WV CHIP application. Income for the family was verified as follows: \$1485.44 in earned income from Claimant; \$1567.40 per month Social Security for Claimant's spouse; \$360.00 per month Social Security – Spousal benefits for Claimant; and \$360.00 per month Social Security – Child benefits for their child. The total amount of monthly income for the household is \$3772.84.

- 2) On June 30, 200, the Department issued notice of denial to claimant which stated in pertinent part:

ACTION: Your WV Children's Health Insurance Program (WV CHIP) benefits will stop. You will not receive this benefit after SEPTEMBER 2009.

REASON: Your child may be eligible for WV CHIP Premium. WV CHIP will send you a letter that explains the program and how to enroll.

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	\$1485.44	Gross Income Limit	\$3815.00
Unearned Income	\$2287.40		
Total Gross Income	\$3772.84		

- 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. 7/09) 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.

- 5) WVIMM Section 7.10.E.1 specifies that net income is calculated by subtracting any allowable deductions from the gross income. Earned income deductions only apply to income from employment. There are two deductions for earned income in the WV CHIP program, a \$90 deduction from the gross income of each working person, and a dependent care deduction which does not apply to the facts of this decision. The only allowable deduction from unearned income is the first

\$50 of child support income, which also does not apply here. The net income for the income group, therefore, is \$3682.84.

- 6) WVIMM Section 7.14.E.1 states in pertinent part,

When the WV CHIP application is denied solely for net income in excess of 200% FPL the child is evaluated for WV CHIP Premium Expansion. The data system totals the gross earned income and the gross unearned income of the IG and compares the result against the gross test in the last column in Appendix C. If the IG's total gross income exceeds 250% FPL, the applicant is denied. If the gross income test is met with gross income less than or equal to 250% FPL, income disregards or deductions are applied. RAPIDS sends a report to WV CHIP staff to evaluate applicants for WV CHIP Expansion when the IG has total gross income less than or equal to 250% FPL but with net income in excess of 200% FPL.

- 7) Claimant testified that the WV CHIP application was on behalf of her 15-year-old son. The child has asthma and other health problems, and Claimant testified that she could not meet his medical needs by self-pay. She stated that private insurance was prohibitively expensive. She did not dispute the facts of the case.

VIII. CONCLUSIONS OF LAW:

- 1) In order for a child to be eligible for WV CHIP with Full Co-Pays, the net income from the Income Group cannot exceed 200% of the Federal Poverty Level for the number of people in the Needs Group, which in this case is \$3052.00.
- 2) The Income Group and the Needs Group for the child in this matter both consist of the child and his parents.
- 3) At the time of application, the monthly net income for the Income Group was \$3682.84, which exceeded \$3052.00, thus rendering the child ineligible 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. Claimant may be eligible for WV CHIP Premium Expansion.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 26th Day of April, 2010.

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