



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Earl Ray Tomblin
Governor

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

December 1, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 30, 2010. Your hearing request was based on the Department of Health and Human Resources' action to deny your child's West Virginia CHIP benefits.

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 Children's Health Insurance Program (WV CHIP Program) is based on current policy and regulations. Some of these regulations state that the income of persons in the WV CHIP income group (IG) is added together and compared to the income limit for the number of persons in the needs group. A WV CHIP Premium Expansion's IG must meet a gross income test with gross income of less than or equal to 250% FPL before any income disregards and/or deductions are applied. (WV Income Maintenance Manual Section 7.9 and 7.10)

Information submitted at your hearing reveals that your gross household income exceeds the maximum allowable income for participation in the WV CHIP or WV CHIP Premium Expansion medical program.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your child's WV CHIP benefits based on excessive income.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Charlotte Lewis, ESW, WVDHHR

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

-----,

Claimant,

v.

Action Number: 10-BOR-2087

**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 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 30, 2010 on a timely appeal filed October 14, 2010.

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

Charlotte Lewis, Economic Service Worker (ESW), WVDHHR

Presiding at the hearing was Thomas E. Arnett, 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 WV CHIP benefits.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Sections 7.9, 7.10 and Chapter 10, Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WVIMM Section 10, Appendix A
- D-2 Income Eligibility Determination (IG's gross monthly income amount)
- D-3 WVIMM Section 7.10.E
- D-4 WV CHIP application (received September 1, 2010) accompanied by income verification provide by the Claimant
- D-5 Employment information for ----- (last updated 9/9/10)
- D-6 Employment information for -----(last updated 9/9/10)

VII. FINDINGS OF FACT:

- 1) On or about September 16, 2010, the Claimant was notified via a Notice of Decision (included with appeal information) that her application for WV Children's Health Insurance Program, hereinafter WV CHIP, was denied. This notice indicates the reason for denial is "Income is more than the gross income limit for you to receive benefits."
- 2) The Claimant acknowledged that her gross monthly income (\$3,946) exceeds 250% of the Federal Poverty Level (FPL) but because policy indicates that a \$90 earned income deduction is given for each working person in the Income Group (IG), she should be entitled to a \$180 deduction. This would bring the IG's income to \$3,766.91 (see Exhibit D-2) – below the 250% FPL (\$3,815) amount in Chapter 10 Appendix A (Exhibit D-1). As a result, the Claimant contends that her child should have been found eligible for WV CHIP benefits. It should be noted that the Claimant purported that while her husband calculated their monthly income to be a different amount, the amount he came up with exceeded 250% of the FPL.
- 3) Charlotte Lewis, an Economic Service Worker (ESW) in the [REDACTED] Department of Health and Human Resources office, indicated that WV CHIP was correctly denied because the Claimant's gross monthly income (Calculated and verified in Exhibits D-2, D-4, D-5 and D-6) of \$3,946.91 exceeds 250% of the FPL (\$3,815). While Ms. Lewis was unable to fully explain why income deductions are provided in policy (WVIMM Section 7.10.E.1), the policy clearly indicates that the gross income test must first be met to establish eligibility.

4) WV Income Maintenance Manual Section 7.9.B states that the Income Group (IG) consists of the income of the following individuals to determine the child's eligibility:

- The WV CHIP child
- The mother of the WV CHIP child, if living in the home with the child
- The legal father of the WV CHIP child, if living in the home with the child
- The legal spouse of the WV CHIP child, if living in the home with the child

5) WV Income Maintenance Manual Section 7.10.E. includes the following pertinent information:

NOTE: A WV CHIP Premium Expansion's IG must meet a gross income test with gross income of less than or equal to 250% FPL before any income disregards and/or deductions are applied. See Section 7.14,E for procedures regarding WV CHIP Premium Expansion.

6) WV Income Maintenance Manual Section 7.14.E and 7.14.E.1 (WV CHIP Premium Expansion) was questioned by the Claimant at the hearing and states in pertinent part:

House Bill 4021 established the WV CHIP Premium Expansion coverage group to expand the WV CHIP income levels to 220% of the Federal Poverty Level (FPL) effective January 1, 2007. Effective January 1, 2009, the WV CHIP Premium Expansion coverage group was further expanded to include gross income levels less than or equal to 250%.

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. See Section 7.10,E. 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) WV Income Maintenance Manual Section 10, Appendix A (Effective 10/09) states that the Federal Poverty Level (250% FPL) for a three-person needs group is \$3,815.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that financial eligibility for the WV CHIP Premium Expansion coverage is met when the IG's gross income is less than or equal to 250% FPL before any income disregards and/or deductions are applied. Policy goes on to indicate that an individual can qualify for WV CHIP when the IG's "net income" is below 200% of the FPL. This indicates that the \$90 earned income deduction per employed IG member could potentially reduce the "net income" below 200% FPL and do away with the monthly premium costs required under the WV CHIP Premium Expansion coverage.
- 2) The evidence submitted in this case clearly indicates that the IG's gross monthly income (\$3,946) exceeds 250% of the FPL (\$3,815). As a result, the Department was correct in its determination that the Claimant's child does not qualify for WV CHIP or the WVCHIP Premium Expansion medical benefit.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Agency to deny the Claimant's WV CHIP benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of December 2010.

Thomas E. Arnett
State Hearing Officer