



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
203 East Third Avenue  
Williamson, WV 25661

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

October 29, 2015



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-2740

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

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

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Jessica Koch, Economic Service Supervisor

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

██████████,

**Appellant,**

v.

**ACTION NO.: 15-BOR-2740**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**INTRODUCTION**

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (WV DHHR) Common Chapters Manual. This fair hearing was convened on October 28, 2015, on an appeal filed July 31, 2015.

The matter before the Hearing Officer arises from the July 8, 2015 decision by the Respondent to approve the Appellant's application for the WV Children's Health Insurance Program (WV CHIP) Premium Plan, which requires a monthly premium, rather than WV CHIP Blue or WV CHIP Gold, which do not require a premium.

At the hearing, the Respondent appeared by Representative Jessica Koch, Economic Service Supervisor at the WV DHHR, ██████████ County Office. The Appellant appeared *pro se*. Both participants were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 WV CHIP application and attached Rights and Responsibilities, signed and dated by the Appellant on May 12, 2015
- D-2 Paycheck stubs from Appellant
- D-3 E-mail exchange between Appellant and Department's Representative, dated June 29, 2015 and July 7, 2015
- D-4 Employment Income screen prints from Appellant's computerized case record
- D-5 WV DHHR Income Maintenance Manual (IMM), Chapter 10, §10.8
- D-6 Internal Revenue Service (IRS) Publication 501 (2014), Table 2.2014, Filing Requirements for Dependents

**Appellant's Exhibits:**

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

**FINDINGS OF FACT**

- 1) On May 12, 2015, the Appellant completed a WV CHIP application/redetermination form (Exhibit D-1), listing herself and her two sons in the household. She requested WV CHIP only for the younger of her two sons, who is 17 years old, in high school and working part-time.
- 2) On the application, she listed her own earnings and verified her pay amount by attaching her paycheck stubs (Exhibit D-2). She listed her younger son's place of employment but did not enter a pay amount or provide any type of earnings verification.
- 3) The Department's representative, who processed the Appellant's application, did not have a current gross pay amount for the Appellant's son. She used the most recent pay on record for him, a gross monthly amount of \$955.99. This income was from July 28 and August 11, 2014 (Exhibit D-4).
- 4) The Appellant's gross monthly pay of \$2326 plus her son's gross monthly pay of \$955.99 equal \$3281.99. Based on this income the Appellant's son was approved for WV CHIP Premium plan.

**APPLICABLE POLICY**

WV Income Maintenance Manual (IMM), Chapter 4, §4.1 states that verification of information is not required from an individual when the information is known or available to the Department.

WV IMM, Chapter 7, 7.1 reads as follows:

WV CHIP is a means-tested health insurance program for children from birth to age 19 for which the Department determines eligibility and provides information to WV CHIP for management.

Eligible individuals are assigned to one of the following WV CHIP enrollment groups based on the countable income of the Income Group (IG): 1) WV CHIP Gold – up to 150% FPL with limited copayments; 2) WV CHIP Blue – over 150% FPL up to 211% FPL with full copayments; and, 3) WV CHIP Premium – over 211% FPL with monthly premiums and full copayments.

WV IMM, Chapter 10, §10.8 reads as follows in part:

Income of children or other tax dependents who are not expected to be required to file a tax return is not counted, whether or not the individual actually files a tax return. A reasonable determination as to whether an individual will be required to file a tax return can be made based on the individual's current income for the applicable budget period.

The U.S. Internal Revenue Services (IRS) publication 501 (2014) states that a tax dependent must file a tax return if his or her earned income was more than \$6,200.

### **DISCUSSION**

The Appellant requested a fair hearing to protest the fact that adding her son's income to hers raised her WV CHIP assistance group's income so high that she only qualified for WV CHIP Premium plan, which requires a monthly premium.

The Department's representative testified that after the Appellant submitted her application on or about May 12, 2015, she requested verification of the son's income but never received it. She testified that she used the most recent income available to her to calculate eligibility, the income as stated above from 2014. The Appellant testified that she made an attestation to the son's income, informing the Department he worked 20 hours per week for \$8 per hour. The Appellant argued that the Department erred in using income from 2014 and erred in not using income she attested to for the current year. For this reason, she stated, neither income source should have been counted toward her son's eligibility for WV CHIP.

The Department's representative submitted into evidence an e-mail exchange between herself and the Appellant (Exhibit D-3), which indicates that the Appellant did not make the attestation of her son's income until July 7, 2015.

The income print-out from the Appellant's case record (Exhibit D-4) and the WV CHIP application form (Exhibit D-1) both indicate the son's employer was [REDACTED]. Therefore, his place of employment had not changed since 2014. The e-mail exchange between the Appellant and the Department's representative indicates the Appellant did not make the attestation of her son's employment until July 7, 2015, after the WV CHIP application had been processed. The Department used the best information available to it at the time it processed the application in order to determine that the son qualified for the WV CHIP Premium Plan. Also, the son's income was included correctly in the WV CHIP assistance group income calculations because the evidence provided showed that he would need to file federal income taxes for the year.

### **CONCLUSION OF LAW**

The Department acted correctly to approve the Appellant's son for the WV CHIP Premium Plan, pursuant to WV IMM Chapter 7, §7.1 and Chapter 10, §10.8.C.

**DECISION**

It is the decision of the state Hearing Officer to **uphold** the Department's determination that the Appellant's son qualified for the WV CHIP Premium Plan based upon the May 2015 WV CHIP application.

**ENTERED this 29<sup>th</sup> Day of October 2015.**

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**Stephen M. Baisden  
State Hearing Officer**