



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
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**Jolynn Marra
Interim Inspector General**

November 13, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:18-BOR-2514

Dear Mr. [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,

Danielle C. Jarrett
State Hearing Officer
Member, State Board of Review

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

cc: Robert Meade, Department Representative

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

██████████,

Appellant,

v.

Action Number: 18-BOR-2514

**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' Common Chapters Manual. This fair hearing was convened on October 23, 2018, on an appeal filed October 4, 2018.

The matter before the Hearing Officer arises from the September 19, 2018 decision by the Respondent to terminate Children's Medicaid benefits and approved the Appellant's son for West Virginia Children's Health Insurance Program (WVCHIP).

At the hearing, the Respondent appeared by Robert Meade, Family Support Specialist, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision, dated September 19, 2018
- D-2 West Virginia Income Maintenance Manual (WV IMM) § 22.2.1; WV IMM § 4, Appendix C; § 10, Appendix A; §§ 22.1 through 22.2.3; 22.2.4.A through 22.2.5; and 22.2.6.E
- D-3 eRAPIDS electronic system screenshot of the Appellant's Case Summary, Case Benefit Summary, Employment Income, and Modified Adjusted Gross Income (MAGI) Medicaid Income Budget, dated October 4, 2018
- D-4 Medicaid/WVCHIP Coverage Review, dated September 4, 2018

Appellant's Exhibits:

- A-1 ██████████ Public Service District – sewer bill, dated September 28, 2018
- A-2 Frontier Communications – cable bill, dated October 1, 2018
- A-3 Mountaineer Gas Company – gas bill, dated October 1, 2018

- A-4 [REDACTED] – trash bill, dated October 19, 2018
- A-5 [REDACTED] pay history printout, dated October 18, 2018
- A-6 Appalachian Power – electric bill, dated October 12, 2018
- A-7 [REDACTED] – mortgage bill, dated September 28, 2018

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) The Appellant's son, [REDACTED], age fifteen, was a recipient of Children's Medicaid benefits.
- 2) The Appellant's household is a three-person Assistance Group (AG).
- 3) On September 4, 2018, the Appellant submitted a Medicaid/ WVCHIP eligibility review to the local Department of Health and Human Resources (DHHR). (Exhibit D-4)
- 4) The Appellant's self-attestation of his earned gross income totaled \$2,924. (Exhibits D-3 and D-4)
- 5) The Appellant's verified monthly gross income totaled \$3,004 per month. (Exhibit A-5)
- 6) The Appellant receives \$80 per month in child support payments. (Exhibit D-4)
- 7) Per policy, child support payments are a countable income source when determining eligibility for Medicaid.
- 8) Per policy, child support is not a countable income source when determining eligibility for WVCHIP.
- 9) On September 19, 2018, the Respondent mailed notice to the Appellant indicating that his son, [REDACTED], was approved for WVCHIP Blue medical insurance, effective October 1, 2018. (Exhibit D-1)
- 10) The gross monthly income limit for Children's Medicaid, age 6 to age 18 is \$2,304 for a three-person AG. (Exhibit D-2)
- 11) The income guidelines for WVCHIP Blue for a three-person AG must be between \$2,598 and \$3,654 per month. (Exhibit D-2)

APPLICABLE POLICY

WV IMM § 1.2.4 reads that it is the client's responsibility to provide complete and accurate information about his circumstances so that the worker can make a correct determination about his eligibility.

WV IMM § 22.2.1 indicates that WVCHIP provides comprehensive health insurance to current children whose income is too high to be eligible for Medicaid.

WV IMM § 4.6.1 reads that the following method is used to determine income for the certification period or the period of consideration (POC). The worker must determine the amount of income that can be reasonably anticipated for the AG. For all cases, income is projected, and past income is used only when it reflects the income the client reasonably expects to receive during the certification period and build monthly income amounts based upon the applicant's reported income.

WV IMM § 4.6.1.D explains that after the worker determines all of the income sources that are to be considered for use, the Worker determines the amount of monthly income, based on the frequency of receipt and whether the amount is stable or fluctuates. Conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows: weekly amount x 4.3, biweekly amount x 2.15, and semimonthly x 2.

WV IMM § 4.7 reads that the Modified Adjusted Gross Income (MAGI) methodology is used to determine financial eligibility for the following Medicaid eligibility groups: parents and other caretaker relatives, pregnant women, children under 19, and adult groups. To calculate the MAGI, determine the adjusted gross income amount for each member of the MAGI household whose income will count, for the current month.

WV IMM § 4.7.1.A reads that to calculate the MAGI, the worker must determine the adjusted gross income amount for each member of the MAGI household whose income will count, for the current month.

WV § IMM 4.7.2.A explains that the worker must first add all of the individual's income from any of the income sources listed in countable sources of income, such as, wages. Child Support payments which are considered unearned income and is an excluded source of income for MAGI calculations.

WV IMM § 4.7.2.B reads that after the income has been determined, the worker must determine if any adjustments or deductions are applicable and subtract them from the income determined. The worker must incorporate allowable deductions (also known as adjustments) in the calculation of MAGI-based income.

WV IMM § 10 - Appendix A - Income Limits, explains to be financially eligible for Children's Medicaid age 6 to age 18, income for a three-person AG, must be less than or equal to \$2,304. In order to be financially eligible for WVCHIP Blue coverage, income for a three-person AG is between \$2,598 to \$3,654.

WV IMM § 22.1 reads that even though some policies and procedures for WVCHIP are the same as those for Medicaid, medical coverage under WVCHIP is not Medicaid. Eligible clients are assigned to one of the following WVCHIP enrollment groups based on the countable income of the Income Group (IG). WVCHIP Gold members up to 150% Federal Poverty Limit (FPL) have limited co-payments. WVCHIP Blue members over the 150% FPL and up to 211% FPL have full co-payments. WVCHIP Premium are those over the 211% FPL and up to 300% FPL have monthly premiums and full co-payments and Native Americans/Alaska Natives are exempt from cost sharing.

WV IMM § 22.2.1 reads prior to approval for WVCHIP, the applicant must be determined ineligible for all Modified Adjusted Gross Income (MAGI) Medicaid coverage groups; therefore, the Children Under Age 19 Group procedures are applied when determining eligibility for WVCHIP.

WV IMM § 22.2.3 explains the differences between the Children Under Age 19 Group Medicaid and WVCHIP are as following: WVCHIP is not Medicaid. It is health insurance coverage. WVCHIP has more limited coverage and once eligible and enrolled, WVCHIP staff will notify the payee of coverage specifics. WVCHIP clients are ineligible for Non-Emergency Medical Transportation (NEMT) and a child cannot have creditable private insurance and WVCHIP in the same month.

WV IMM § 22.2.6.E explains that once the case information is forwarded to WVCHIP, WVCHIP is responsible for providing enrollment materials, such as the benefit plan description, WVCHIP member cards, client's rights and responsibilities, etc.

WV IMM § 22.16.1 explains that individuals are eligible for WVCHIP when all the following conditions are met at the time of the application or redetermination, the child must not be financially eligible for a MAGI Medicaid coverage group, household income is less than or equal to 300% FPL of \$5,195, and the child does not have creditable individual, public or private group health insurance coverage. Most children with other health coverage will not qualify for WVCHIP.

DISCUSSION

The Appellant's son, [REDACTED], was a recipient of West Virginia Children's Medicaid for a three-person AG. On August 13, 2018, the Respondent issued a Medicaid/WVCHIP redetermination to the Appellant advising that his household's medical coverage was due for redetermination by September 30, 2018.

The Appellant submitted the medical redetermination form to the local DHHR office and reported that his employment income equaled \$680 per week and that he received \$80 per month in child support payments.

Based on the Appellant's self-attested income, the Respondent issued notice on September 19, 2018 advising the Appellant that effective October 1, 2018, his son was approved for WVCHIP

insurance coverage. The Appellant disagreed with the Respondent's calculation of his monthly income.

At the time of the hearing, the Appellant submitted his paystubs for the month of September 2018. He argued that his gross monthly earned income for the month of September 2018 totaled \$2,800. Per policy, when determining monthly gross income, weekly pay is first averaged and then multiplied by 4.3. Using this method, the Department calculated the Appellant's potential eligibility for Medicaid using the average weekly salary of $\$680 \times 4.3 = \$2,924$, plus the \$80 per month child support received which equaled \$3,004. The total income exceeded the Medicaid policy limits of \$2,304. Once it was determined the Appellant's son was no longer eligible for Medicaid, he was assessed for WVCHIP eligibility. Using the same budgeting method, the Appellant's countable monthly income was \$2,924 (per policy, child support is not a countable for income source for WVCHIP insurance). Because the Appellant's total countable income was between \$2,598 and \$3,654, he was determined eligible for WVCHIP Blue insurance. WVCHIP Blue provisions require full co-payments. Following the Department Representative's explanation of the required multiplier, the Appellant indicated that he understood the calculation.

The Appellant indicated that his son, [REDACTED], has an artificial aortic valve and that on October 4, 2018, because he no longer received Medicaid, he was required to pay \$200 out-of-pocket expenses for his son's prescriptions. The Appellant testified that his son is prescribed Coumadin - 1mg for a 30-day supply, Coumadin - 2mg for a 60-day supply, Lisinopril for his blood pressure, and blood work every six (6) weeks. The Appellant testified that he cannot afford \$200 per month for his son's prescription costs and is concerned that under the WVCHIP Blue coverage, the monthly cost will become a hardship on his household. While the Appellant may have legitimate concerns regarding the inability to afford his co-payments, there is no exception in policy regarding the established income limits for Medicaid eligibility or WVCHIP co-payment requirements.

CONCLUSIONS OF LAW

- 1) The Children's Medicaid age 6 to age 18 income eligibility limit for a three-person AG is \$2,304.
- 2) The Appellant's gross monthly income of \$3,004 exceeds the Children's Medicaid income eligibility limit for a three-person AG.
- 3) The WVCHIP Blue income range for a three-person AG is between \$2,598 and \$3,654.
- 4) The Appellant's gross monthly income is within the eligibility range for the WVCHIP Blue insurance coverage for a three-person AG.
- 5) The Respondent was correct in determining that the Appellant's son is eligible for WVCHIP Blue insurance coverage.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision was correct in determining the Appellant's son was appropriately approved for WVCHIP.

ENTERED this ____ day of 2018.

Danielle C. Jarrett
State Hearing Officer