



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
227 Third Street  
Elkins, WV 26241

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

October 6, 2005

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 6, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny West Virginia School Clothing Allowance benefits since you have no specified relationship to the child for which you applied.

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 West Virginia School Clothing Allowance Program is based on current policy and regulations. Some of these regulations state as follows: The child must be living with a specified relative in a place established as the relative's home. A specified relative is defined as natural or adoptive parents, blood relative, legal step-parent, step-brother or step-sister, or legal spouses of any person in any of these groups except for spouses of step-relatives. (West Virginia Income Maintenance Manual Section 15.2 B)

Information submitted at the hearing revealed that your School Clothing Allowance application was made for the child of your previous girlfriend. Although you have legal custody of the child, you have no specified relationship to him.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your School Clothing Allowance application.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
\_\_\_\_\_, Family Support Supervisor, DHHR

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

\_\_\_\_\_,

**Claimant,**

v.

**Action Number: 05-BOR-6414**

**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 October 6, 2005 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 October 6, 2005 on a timely appeal filed August 8, 2005. The hearing was originally scheduled for September 7, 2005 but was rescheduled at the Claimant's request.

**II. PROGRAM PURPOSE:**

The program entitled West Virginia School Clothing Allowance is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The WV WORKS School Clothing Allowance (SCA) Program is designed to provide clothing assistance for school-age children. These children must be foster children or recipients of WV WORKS during the month of July. The West Virginia School Clothing Allowance (WVSCA) provides clothing assistance for school-age children in families who do not wish to apply or are not financially eligible for WV WORKS but whose income is equal to or less than 100% of the Federal Poverty Level.

**III. PARTICIPANTS:**

\_\_\_\_\_, Claimant  
\_\_\_\_\_, Family Support Supervisor, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTIONS TO BE DECIDED:**

The question(s) to be decided is whether the Department took the correct action in denying the Claimant's School Clothing Allowance application.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Section 15.2 B and Section 15, Appendix C

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 School Clothing Allowance denial letter dated August 5, 2005
- D-2 West Virginia Income Maintenance Manual Section 15, Appendix C
- D-3 West Virginia Income Maintenance Manual Section 15.2 B

**VII. FINDINGS OF FACT:**

- 1) The Claimant applied for West Virginia School Clothing Allowance for \_\_\_\_\_ on July 29, 2005.
- 2) The Claimant's application was denied and notification (D-3) was sent on August 5, 2005 which stated:

Your application for School Clothing Allowance for \_\_\_\_\_ 7/29/05 has been denied effective 08/05/05.

Here is why: No specified relationship, according to West Virginia state policy, exists between the child and the primary caregiver. Since no specified relationship exists, the application has been denied.

- 3) Mr. \_\_\_\_\_ testified that \_\_\_\_\_ is the son of his former girlfriend and he has full custody of the child. He was never married to \_\_\_\_\_'s mother and is not a blood relative of the child.
- 4) Ms. \_\_\_\_\_ testified that since Mr. \_\_\_\_\_ is not the legal step-father of the child, he does not have a specified relative relationship, according to policy.

- 5) West Virginia Income Maintenance Manual Section 15.2 B (D-3) states, in part:

The child must be living with a specified relative in a place established as the relative's home. A specified relative is defined below.

- Natural or adoptive parents.
- Blood relative. Those of half-blood, brothers or sisters, grandparents, great-grandparents, great-great-grandparents, great-great-great-grandparents, uncles or aunts, great-uncles or aunts, great-great-uncles or aunts, nephews or nieces, first cousins, first cousins once removed.
- Legal step-parent, step-brother or step-sister.
- Legal spouses of any person named in any of the above groups except for spouses of step-relatives. The specified relationship exists even though the marriage terminated in death or divorce.

Legal custody or guardianship of a child does not, in itself, qualify a person as a specified relative. A relative of the father of a child born outside of wedlock can qualify as a specified relative only if the child's paternity has been established.

- 6) West Virginia Income Maintenance Manual Section 15, Appendix C specifies that the specified relative with whom the child lives must sign the DFA-WVSC1 (application) or the inROADS signature page.

## VIII. CONCLUSIONS OF LAW:

- 1) The Claimant applied for West Virginia School Clothing Allowance for \_\_\_\_\_ on July 29, 2005.
- 2) While the Claimant has full, legal custody of the child, he does not have a specified relationship to the child as defined in West Virginia Income Maintenance Manual Section 15.2 B since he is not a blood relative, an adoptive parent or the legal step-parent.
- 3) The Department properly denied the Claimant's School Clothing Allowance application based on the non-existence of a specified relative relationship.

## IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's action in denying the Claimant's West Virginia School Clothing Allowance application.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 6th Day of October, 2005.**

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**Pamela L. Hinzman  
State Hearing Officer**