



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

Martha Yeager Walker
Secretary

November 15, 2005

Ms. _____

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 3, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your School Clothing Allowance application.

In arriving at a decision, the State Hearings 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 School Clothing Allowance Program is based on current policy and regulations. Some of these regulations state as follows:

Gross non-excluded income for the AG is totaled and compared to 100% FPL. There are no deductions from the gross non-excluded income, whether the income is earned or unearned. Income is prorated and converted as appropriate to arrive at a monthly amount as it is for any other program. If the gross non-excluded income is equal to or greater than 100% FPL, the family is ineligible for WVSCA. (West Virginia Income Maintenance Manual Chapter 15, Appendix C (I) Income - 2005 West Virginia SCHOOL CLOTHING ALLOWANCE (WVSCA)).

The information submitted at your hearing revealed: You had excessive monthly income for the West Virginia School Clothing Allowance program.

It is the decision of the State Hearings Officer to uphold the action of the Department to deny the School application.

Sincerely,

Ray B. Woods, Jr., M.L.S.
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Cassandra Toliver, Economic Service Supervisor

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

_____,

Claimant,

v.

Action Number: 05-BOR-6795

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF THE STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on November 15, 2005 for Ms. _____. 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 3, 2005 on a timely appeal filed October 17, 2005.

It should be noted here that Ms. _____ did not receive the 2005 School Clothing Allowance benefits. A pre-hearing conference was held between the parties prior to the scheduled hearing and, Ms. _____ did not have legal representation. Ms. _____ requested to have the hearing conducted by conference call. The hearing convened on November 3, 2005 rather than November 1, 2005 due to the scheduling notice being misplaced.

II. PROGRAM PURPOSE:

The Program entitled 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:

Ms. _____, Claimant

Ms. Cassandra Toliver, Economic Service Supervisor – Kanawha DHHR Office

Presiding at the Hearing was, Ray B. Woods, Jr., M.L.S., State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided: Did Ms. _____ have excessive income for the School Clothing Allowance program?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 10, Appendix A – INCOME LIMITS; West Virginia Income Maintenance Manual Chapter 15, Appendix B 2005 WEST VIRGINIA SCHOOL CLOTHING ALLOWANCE (SCA) (A) APPLICATION PROCESS and; West Virginia Income Maintenance Manual Chapter 15, Appendix C (I) 2005 WEST VIRGINIA SCHOOL CLOTHING ALLOWANCE (WVSCA)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Denial Letter dated 08/16/05

D-2 WVIMM Chapter 15 Appendix A – Income Chart

D-3 Child Support Payment Summary

D-4 WVIMM Chapter 15 Appendix C (I) Income - 2005 WEST VIRGINIA SCHOOL CLOTHING ALLOWANCE (WVSCA)

D-5 Case Comments 08/15/05

D-6 Scheduling Notice dated 10/17/05

VII. FINDINGS OF FACT:

1) Ms. _____ applied for the School Clothing Allowance Program on July 13, 2005. She received monthly Social Security Benefits in the amount of \$1,034.00 and, intermittent Child Support Payments (Exhibit D-3). The Department averaged Ms. _____'s child support payments for April 2005 through June 2005 to determine a three (3) month average. The amount totaled $\$454.00 \div 3 = \$151.00 + \$1,034.00$ (Social Security) = \$1,185.00 Average Monthly Income. The income guidelines are based on the 100% Federal Poverty Level (FPL). Ms. _____'s income was based on a two member household with a FPL of \$1,070.00 (Exhibit D-2).

Ms. Cassandra Toliver received a message from the Customer Service Center on August 15, 2005, regarding the clothing allowance. Ms. Toliver reviewed the case and determined the case was correct (Exhibit D-5). The Department denied Ms. _____'s School Clothing Allowance

application by letter dated August 16, 2005 (Exhibit D-1). The letter stated in part, “Your application for School Clothing Allowance dated 07/13/05 has been denied. Income is too much for you to receive benefits.” Ms. _____ requested a Fair Hearing on October 17, 2005. The hearing finally convened on November 3, 2005.

2) To support the Department’s action, Ms. Cassandra Toliver referred to West Virginia Income Maintenance Manual Chapter 15, Appendix C (I) Income - 2005 WEST VIRGINIA SCHOOL CLOTHING ALLOWANCE (WVSCA) states:

Gross non-excluded income for the AG is totaled and compared to 100% FPL. See Chapter 10, Appendix A. There are no deductions from the gross non-excluded income, whether the income is earned or unearned. Income sources are treated according to the WV WORKS column in Section 10.3. Income is prorated and converted as appropriate to arrive at a monthly amount as it is for any other program. See Section 10.24, A. If the gross non-excluded income is equal to or greater than 100% FPL, the family is ineligible for WVSCA.

NOTE: No deductions or disregards, including the \$50 child support deduction, are applied.

3) West Virginia Income Maintenance Manual Chapter 10, Appendix A – INCOME LIMITS states in part, “The 100% Federal Poverty Level (FPL) for a two (2) person household is \$1,070.00.”

4) West Virginia Income Maintenance Manual Chapter 15, Appendix B (A) 2005 WEST VIRGINIA SCHOOL CLOTHING ALLOWANCE (SCA) – APPLICATION PROCESS states in part, “The application process is the same as for the WV WORKS applicants.”

5) Ms. _____ did not dispute the Department’s position.

VIII. CONCLUSIONS OF LAW:

West Virginia Income Maintenance Manual Chapter 15, Appendix C (I) Income - 2005 WEST VIRGINIA SCHOOL CLOTHING ALLOWANCE (WVSCA) states:

Gross non-excluded income for the AG is totaled and compared to 100% FPL. See Chapter 10, Appendix A. There are no deductions from the gross non-excluded income, whether the income is earned or unearned. Income sources are treated according to the WV WORKS column in Section 10.3. Income is prorated and converted as appropriate to arrive at a monthly amount as it is for any other program. See Section 10.24, A. If the gross non-excluded income is equal to or greater than 100% FPL, the family is ineligible for WVSCA.

Ms. _____’s monthly Social Security Income and the average of her intermittent Child Support Payments for three months totaled \$1,185.33. The FPL for a two person household is \$1,070.00. Ms. _____’s average monthly income exceeds the income limits for the School Clothing Allowance program. It should be noted that, if the Department only used child support received within thirty days of the July 13, 2005 application (\$54.76), Ms. _____ would still remain ineligible. ($\$1,034.00 + \$54.76 = \$1,088.76$).

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the Department in this particular matter. The Department acted properly in denying the 2005 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 15th Day of November, 2005.

Ray B. Woods, Jr., M.L.S.
State Hearing Officer