



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

October 10, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 18, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for the School Clothing Allowance Program.

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 School Clothing Allowance (SCA) Program is based on current policy and regulations. Some of these regulations state as follows: If the gross non-excluded income is equal to or greater than 100% FPL, the family is ineligible for the WVSCA. (Chapter 15, Appendix C, Part I, of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that your monthly gross non-excluded income exceeds the allowable limits for the SCA Program.

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

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Beverly McKinney, DHHR

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

_____,

Claimant,

v.

Action Number: 06-BOR-2508

**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 September 18, 2006 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 September 18, 2006 on a timely appeal, filed July 10, 2006.

It should be noted here that the claimant's SCA benefits have been denied.

II. PROGRAM PURPOSE:

The Program entitled School Clothing Allowance 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
Beverly McKinney, Department Hearing Representative

Observing:
Cheryl McKinney, State Hearing Officer

Presiding at the hearing was Margaret M. Mann, 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 was correct in the decision to deny the claimant's application for the SCA as the household did not meet the financial requirements.

V. APPLICABLE POLICY:

Chapter 15, Appendix C, Part I., Sections 9.21A, 10.3MMM, 10.3VVV and Chapter 10, Appendix A of the West Virginia Income Maintenance Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Appointment Notice
- D-2 IG-BR-29 Hearing/Grievance Record Information
- D-3 Fair Hearing Request
- D-4 Denial Notice dated 07/05/06
- D-5 Section 9.21 and Appendix C, Chapter 15 of the West Virginia Income maintenance Manual
- D-6 Department's Summary
- D-7 RAPIDS Screen EASC

VII. FINDINGS OF FACT:

- 1) The claimant made an application for School Clothing Allowance (SCA) Program on July 3, 2006. The claimant lives with his school age daughter _____ and his adult daughter _____. The claimant receives \$601 Social Security and \$22 SSI. _____ receives \$223 Social Security.
- 2) A letter was sent to claimant dated 07/05/06 (D-4). It reads in part: Your application for the School Clothing Allowance has been denied. Reason: Income is too much for you to receive benefits.
- 3) Calculations show that the gross income considered is \$824. This is the claimant's Social Security of \$601 and _____'s Social Security of \$223. (D-7) The only person in

the AG is ____ as the claimant is a recipient of SSI. His Social Security does count. [REDACTED] is an adult and is not in the AG nor is her income considered.

- 4) Chapter 15, Appendix C, Part H., of the West Virginia Income Maintenance Manual reads in part that the policy for Eligibility Determination Groups is the same as WV WORKS in Section 9.21.
- 5) Section 9.21A of the West Virginia Income Maintenance Manual reads in part that although the individuals listed below are required to be included in the WV WORKS AG, if otherwise eligible, an SSI recipient, age 18 or over, cannot be included in the AG. The following individuals are required to be included: All minor, dependent, blood-related and adoptive siblings who live in the same household and are otherwise eligible. The parent(s) of the child(ren) identified above when the parent(s) live with the child(ren).
- 6) Section 9.21B & C of the West Virginia Income Maintenance Manual reads in part that the non-excluded income of the ineligible and disqualified individuals who would normally be required to be included in the AG must be counted when determining eligibility, but disqualified and excluded SSI individuals are not counted in the Needs Group. Countable income is compared to the income limits for the number in the AG to determine eligibility and the amount of the benefit.
- 7) Section 10.3MMM of the West Virginia Income Maintenance Manual reads in part that RSDI is unearned income for the WV WORKS Program.
- 8) Section 10.3VVV of the West Virginia Income Maintenance Manual reads in part that SSI is not considered as income for the WV WORKS Program.
- 9) Chapter 15, Appendix C, Part I., of the West Virginia Income Maintenance Manual reads that 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 sources are treated according to WV WORKS column in Section 10.3. Income is prorated and converted 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 the WVSCA.
- 10) Chapter 10, Appendix A, shows the maximum 100% FPL level for an AG of 1 as \$817.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in that 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. If the gross non-excluded income is equal to or greater than 100% FPL, the family is ineligible for the WVSCA.
- 2) Policy dictates that the non-excluded income of the ineligible individuals who would normally be required to be included in the AG must be counted when determining eligibility, but excluded SSI individuals are not counted in the Needs Group. An SSI recipient, age 18 or over, cannot be included in the AG.

- 3) The AG's total gross non-excluded income for July was \$\$824. This includes the father's income from Social Security. His income other than the SSI must be considered.
- 4) The 100% FPL for an AG of one is \$817. \$824 exceeds \$817.
- 5) The denial of the application is valid.

IX. DECISION:

It is the finding of the State Hearing Officer that the household had excessive income for the School Clothing Allowance Program. The Department is upheld in the decision to deny the claimant's application for the School Clothing Allowance Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision
Form IG-BR-29

ENTERED this 10th Day of October, 2006.

**Margaret M. Mann
State Hearing Officer**