



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
200 Davis Street
Princeton, WV 24740

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

October 31, 2006

Dear Ms. _____

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 2, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for the WV 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: 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. 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) All withheld unearned income is counted, unless it is withheld to repay income that was previously used to determine AFDC/U, TANF or WV WORKS eligibility. (Chapter 10.24, D.12, b. of the WV Income Maintenance Manual)

The information which was submitted at your hearing revealed that your monthly gross non-excluded income for July 2006 was anticipated correctly.

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,

Cheryl McKinney
State Hearing Officer
Member, State Board of Review

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

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

_____,

Claimant,

v.

Action Number: 06-BOR-2874

**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 2, 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 October 2, 2006 on a timely appeal, filed August 7, 2006.

It should be noted here that the claimant's WVSCA 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 (WVSCA) 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
Harold Chatting, Department Hearing Representative

Presiding at the Hearing was Cheryl McKinney, 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 WVSCA as the household did not meet the financial requirements.

V. APPLICABLE POLICY:

Chapter 15, Appendix C, Part H, I., Section 9.21A.3, Section 10.24D, 12.b, and Chapter 10, Appendix A of the West Virginia Income Maintenance Manual.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Copy of IG-BR-40 appt. letter dated September 5, 2006
- D-2 Copy of DFA-FH-1 Hearing Request form dated 8-7-06
- D-3 Copy of IG-BR-29 for _____
- D-4 Copy of WVSCA denial notification letter dated 7-28-06
- D-5 Rapids screen CMFH
- D-6 Department's Summary dated 10-2-06
- D-7 WV Income Maintenance Manual Chapter 15, Appendix C, Chapter 10, Appendix A, and Chapter 10.24D, 12b

Claimant's Exhibits:

- C-1 Copy of BB&T account statement dated 9-19-06 showing deposits

VII. FINDINGS OF FACT:

- 1) The claimant made an application for the WV School Clothing Allowance Program July 27, 2006, and listed herself, her husband and son as living in the household. Claimant receives SSI and RSDI. Her husband and son each receive RSDI monthly.
- 2) The Department determined that Claimant was not eligible to be included in the Assistance Group as she was a recipient of SSI and RSDI. The AG was determined to include only two individuals, her husband and her son. (D-7)

- 3) The Department testified they verified with the Social Security Administration that Claimant's household was entitled to receive \$183.00 monthly for herself, \$183.00 for her son, and \$742.00 for her husband, for a total of \$1108.00. Claimant's SSI income was not counted. The 100% FPL for a two person Assistance Group is \$1100.00. (D-7) The Department testified they determined Claimant's countable income at \$1108.00.
- 4) The Department sent the Claimant a notification letter dated July 28, 2006 which stated in relevant part: Your application for School Clothing Allowance dated 7-27-06 has been denied. Income is too much for you to receive benefits. Your gross income is \$1108. School Clothing Allowance Income limit is \$1100.00. (D-4)
- 5) The claimant testified that she does not receive \$1108.00 monthly from SSA, and disagrees with the Department using the entitlement amount instead of what she actually receives monthly. Claimant actually receives \$168.00 for herself, \$153.00 for her son, and \$742.00 for her husband, for a total of \$1063.00. She also receives SSI but this income was not counted in determining eligibility. Claimant testified she receives this lower amount because Social Security is withholding \$45.00 monthly to recover an overpayment. (C-1)
- 6) Testimony from Claimant revealed she has not previously received AFDC/U, TANF or WV Works benefits.
- 7) WV Income Maintenance Manual Chapter 15, Appendix C, H. states that policy for Eligibility Determination Groups is the same as WV Works in Section 9.21.
- 8) WV Income Maintenance Manual Chapter 9.21A.3 states in relevant part:
 - WHO CANNOT BE INCLUDED: an individual, age 18 or over, who is eligible for SSI benefits as determined by SSA.
- 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 two is \$1100.00. .
- 11) Section 10.24D, 12b states in relevant part:

WITHHELD INCOME

All withheld unearned income is counted, unless an amount is being withheld to repay income that was previously used to determine AFDC/U, TANF or WV Works eligibility.

VIII. CONCLUSIONS OF LAW:

- 1) The Department was correct in their determination to exclude the claimant from the Assistance Group due to being a recipient of SSI, and conclude this to be a two person AG.
- 2) Policy clearly states that all withheld income is counted, unless an amount is being withheld to repay income that was previously used to determine AFDC/U, TANF or WV Works eligibility. Claimant has never received AFDC/U, TANF or WV Works benefits, and therefore the withheld income must be counted.
- 3) 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.
- 4) Claimant's countable income was \$1108.00. This exceeds the maximum 100% FPL of \$1100.00. The Department was correct in their decision to deny this application for WVSCA benefits.

IX. DECISION:

It is the finding of the State Hearing Officer that 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 31th Day of October, 2006.

**Cheryl McKinney
State Hearing Officer**