



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

February 2, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 12, 2005. 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: the policy for Eligibility Determination Groups is the same as WV WORKS in Section 9.21. (Chapter 15, Appendix C, Part H, of the West Virginia Income Maintenance Manual) A child who is absent from the home for 30 consecutive days is ineligible to be included. (Chapter 9.21A #3 of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that your children were out of the home from 06/26/2005 and returned 08/15/2005. This exceeds thirty consecutive days,

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: 05-BOR-6410

**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 12, 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 12, 2005 on a timely appeal, filed July 27, 2005.

It should be noted here that the claimant's 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

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 because the Assistance Group (AG) requirements were not met.

V. APPLICABLE POLICY:

Chapter 15, Appendix C, Part H. and Chapter 9.21 of the West Virginia Income Maintenance Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing appointment letter
- D-2 Form IG-BR-29 Hearing/Grievance Record Information
- D-3 Hearing Request
- D-4 Notification letter dated 07/26/05
- D-5 Chapter 15 Appendix B, Chapter 15 Appendix C, and Chapter 9.21 of the West Virginia Income Maintenance Manual
- D-6 Department's Summary

VII. FINDINGS OF FACT:

- 1) A School Clothing Allowance application was received 07/01/2005.
- 2) The claimant was in the office on 07/22/05 to apply for food stamps and Medicaid. At that time, she reported that her children were spending their summer with their father. They left 06/2005 and would not return until 08/15/2005.
- 3) The application was denied because the children were not in a qualified living arrangement. The claimant had reported the children left home in 06/2005 and would not return until 08/15/05. This is a period of 30 or more consecutive days. A notification letter was mailed on 07/26/2005. (D-4) The claimant requested a hearing 07/27/2005. (D-3)

- 4) Testimony from the claimant revealed that she has two sons ages 14 and 15. The children left 06/26/2005 and returned 08/15/2005. The reason for the absence was visitation with their father in [REDACTED] This is the only time he has visitation.
- 5) Chapter 15, Appendix C, Part H., of the West Virginia Income Maintenance Manual reads that the policy for Eligibility Determination Groups is the same as WV WORKS in Section 9.21.
- 6) Chapter 9.21 of the West Virginia Income Maintenance Manual reads in part that the following situations result in ineligibility for the individual who meets a least one of the following criteria. A child who is absent from his home for 30 consecutive days. A child may be absent from his home for more than 30 consecutive days and remain a WV WORKS recipient only if the reason for the absence is one of the following: 1) Medically substantiated mental or physical illness of a parent or other caretaker necessitates other temporary living arrangements for the child. 2) Medically substantiated mental or physical illness of the child necessitates other temporary arrangements for the child. 3) The child receives education or training at a special needs school and residence outside the home is required to begin or continue such education. 4) A natural disaster forces the child to live apart from the parent(s) or other caretaker(s). 5) The PRC has targeted a family problem that requires the child to be absent from the home for more than 30 consecutive days.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in that a child who is absent from his home for 30 consecutive days is not included in the Eligibility Determination Group for WV WORKS. This same policy is applied for the SCA Program.
- 2) The claimant's children were not in the home from 06/26/2005 until 08/15/2005. This exceeds thirty consecutive days.
- 3) Testimony received from the claimant does not clearly demonstrate any changes to the conclusions reached by the Department.

IX. DECISION:

It is the finding of the State Hearing Officer that the children were not eligible to be included in the Assistance Group in July. 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 2nd Day of February, 2006.

**Margaret M. Mann
State Hearing Officer**