



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 970
Danville, WV 25053

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 29, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 27, 2007. Your hearing request was based on the Department of Health and Human Resources' decision to deny your School Clothing Allowance application, and terminate your Food Stamps and Medicaid benefits due to excessive income.

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 (SCA) Program, Food Stamps, and Medicaid is based on current policy and regulations. Some of these regulations state as follows: For SCA, to determine eligibility, gross non-excluded income for the Assistance Group is totaled and compared to 100% of the Federal Poverty Level as specified in Chapter 10, Appendix A. (West Virginia Income Maintenance Manual Section 15, Appendix C, I) For Food Stamps, action must be taken for all AG's when information is received from a source that is considered verified upon receipt such as Workers' Compensation. (WV Income Maintenance Manual Section 2.2a) For Medicaid, Case maintenance action is required to update the data system when a Medicaid AG has a change of income. (WV Income Maintenance Manual Section 2.16)

Information submitted at your hearing reveals that your countable household income exceeds eligibility guidelines for the School Clothing Allowance Program, Food Stamps and Medicaid.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your School Clothing Allowance application, and terminate your Food Stamps and Medicaid eligibility.

Sincerely,

Cheryl McKinney
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Heather Walker, [REDACTED] DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-2067/2068/2069

**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 27, 2007 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 27, 2007 on a timely appeal filed August 27, 2007.

II. PROGRAM PURPOSE:

The programs entitled West Virginia School Clothing Allowance, Food Stamps and AFDC-Related Medicaid are 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.

The purpose of the Food Stamp Program is to provide an effective means of utilizing the nation's abundance of food "to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households.". This is accomplished through the issuance of EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

The Medicaid categorically related to Aid to Families with Dependent Children Program is designed to provide medical assistance to eligible families with children from the fetal stage to age 18. These dependent children must be deprived of parental support due to the death, continued absence, incapacity, or unemployment of the parents. In addition, the family must meet financial eligibility criteria.

III. PARTICIPANTS:

_____, Claimant
Heather Walker, [REDACTED] DHHR 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 took the correct action in denying the Claimant's School Clothing Allowance application, and terminating her Food Stamps and Medicaid eligibility due to excessive income.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 2.16, 2.2, 10.3, 10-Appendix A and 15-Appendix C

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department's Summary
- D-2 DFA-FH-1 Fair Hearing Request Form dated August 23, 2007
- D-3 IG-BR-29 form and Hearing Notification letter dated September 7, 2007
- D-4 DFA-WVSC-1 School Clothing Allowance Application date stamped July 24, 2007
- D-5 Copy of Worker's notes for checking data system exchanges
- D-6 Copy of Workers Compensation payment screen dated August 10, 2007
- D-7 Copy of Request for Information form dated August 10, 2007
- D-8 Copy of information returned by Claimant to the Department date stamped August 20, 2007
- D-9 Copy of notification letter dated August 21, 2007
- D-10 Copy of CMCC case comments screen dated August 10 and August 20, 2007
- D-11 Copy of WV Income Maintenance Manual Appendix A
- D-12 Copy of WV Income Maintenance Manual Section Chapter 15, Appendix C, Appendix B, and 10.24

Claimant's Exhibits:

- C-1 Letter from Attorney [REDACTED] dated September 12, 2007
- C-2 Letter from Attorney [REDACTED] dated September 14, 2007

VII. FINDINGS OF FACT:

- 1) The Claimant submitted a School Clothing Allowance application (D-4) which was date-stamped in the Raleigh County DHHR Office on July 24, 2007 (D-1). At the time of application the Claimant was actively receiving Food Stamps and AFDC Related Medicaid.
- 2) The Claimant's application was processed on August 10, 2007. During the screening process the Department's case worker checked the data exchange system, finding a recent Workers Compensation check had been issued on June 28, 2007 to the Claimant in the amount of \$2925.73. The Claimant did not report this information. The Department sent a Request for Information Notice (D-7) to the Claimant. The notice included the following pertinent information:

This is to inform you that the information listed below is needed to establish your eligibility and/or deductions for the SCA/FS. If this information is not made available to this office by August 20, 2007 your eligibility for benefits and/or deductions cannot be established or continued.

Copy of Workers Compensation checks from 6/14 to 7/24/07

Verification of Rental Income

July Bank Statement

Written statement from payee of child support stating how much and how often paid, dated and signed with phone number

- 3) The Claimant returned information (D-8) to the Department on August 20, 2007. The information returned included a note that was written beside the request for copy of Workers Compensation checks from 6/14 to 7/24/07 which stated "no checks – letter from lawyer enclosed. The Claimant attached a letter she received from her attorney in which he indicated that he recently protested the BrickStreet order dated August 7, 2007 granting no permanent partial disability benefits. The letter also asked the Claimant to respond to him with a decision on how he should proceed. The letter did not offer any information about the Workers Compensation check in question.
- 4) The Department processed the SCA application based on the information received, and counted the income of \$2925.73 as ongoing monthly since no information was provided to indicate otherwise. This change resulted in denial of the SCA application, and

termination of her Food Stamps and AFDC Related Medicaid case due to excessive income.

- 5) The Claimant testified during the hearing that she originally thought she had received the Workers Compensation check earlier in June 2007, however did acknowledge she received the check a few days after the June 29, 2007 issue date. She stated that although she did receive the money, she should have been approved because she needed the help.
- 6) West Virginia Income Maintenance Manual Section 15, Appendix C, states that for School Clothing Allowance, gross non-excluded income for the Assistance Group is totaled and compared to 100% of the Federal Poverty Level as specified in Chapter 10, Appendix A. Income sources are treated according to West Virginia Works policy in Section 10.3.
- 7) West Virginia Income Maintenance Manual Section 10.3, QQQQ states that Workers Compensation payments are treated as unearned income for the Food Stamp program, and earned income for the AFDC Medicaid and West Virginia Works Program.
- 8) West Virginia Income Maintenance Manual Section 10, Appendix A states that 100% of the Federal Poverty Level for a three-person Assistance Group is \$1431.00. It also states that the maximum gross income for a three (3) person household is \$1799.00. For AFDC Medicaid the maximum income limit is \$253.00 for a three (3) person household.
- 9) West Virginia Income Maintenance Manual Section 2.2,2a includes the following pertinent information regarding the Food Stamp Program:

2. Changes Acted On For All Reporting Groups

a. Information Verified Upon Receipt

Action must be taken for all AG's when information is received from a source that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the primary source of the information. The only sources considered verified upon receipt are:

- BENDEX and SDX from SSA
- COLA Mass Change and reports in Appendix B
- SAVE from INS and 40 Qualifying Quarters information from SSA
- Unemployment Compensation from WV BEP data exchange

- Workers' Compensation from WV Workers' Compensation data exchange
- FSE&T's information that a client did not comply with work requirements
- IFM's determination of an IPV
- Notificaiton of application for benefits in another state.

10) WV Income Maintenance Manual Section 2.16 A. includes the following:

AFDC-RELATED AND SSI-RELATED
MEDICAID

A. CHANGE IN INCOME AND
DEDUCTIONS

Case maintenance action is required to update the data system when a Medicaid AG has a change of income.

Action taken by the Worker follows:

- If the AG previously did not have a spenddown and now has one, the case is closed after proper notice.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that all non-excluded income must be counted in determining eligibility for the School Clothing Allowance Program. Policy also stipulates that Workers Compensation payments verified through use of the data exchange system are considered verified upon receipt and must be acted on for the Food Stamps and AFDC-Related Medicaid Program. The Workers Compensation check issued to the Claimant June 29, 2007 was verified through a routine check of the data exchange system, and correctly counted as income for the Claimant's SCA application, and ongoing Food Stamps and AFDC Related Medicaid cases. The Claimant offered no evidence during the application process that the payment would not continue.
- 2) The Workers Compensation check in the amount of \$2925.73 is clearly in excess of the maximum countable income for all three programs, and therefore the Department was correct in their actions to deny the School Clothing Allowance application, and terminate the claimant's Food Stamps and AFDC-Related Medicaid cases.

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, and terminate her Food Stamps and AFDC-Medicaid cases.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of November, 2007.

**Cheryl McKinney
State Hearing Officer**