



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

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

December 6, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 23, 2007. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for School Clothing Allowance due to excessive assets.

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 Program is based on current policy and regulations. Some of these regulations state as follows: The application process is the same as for WV Works Cash Assistance applicants. The asset limit is \$2000.00 (West Virginia Income Maintenance Manual Section 15, Appendix B.A, B.j)

Information submitted at your hearing reveals that your total countable assets during the month of application exceeded the maximum allowable asset limit of \$2000.00.

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

Sincerely,

Cheryl McKinney
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Shelia Napier, [REDACTED] DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-2133

**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 23, 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 October 23, 2007 on a timely appeal filed July 19, 2007.

II. PROGRAM PURPOSE:

The program entitled West Virginia 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:

_____, Claimant
_____, Claimant's infant child
Marsha Stowers, [REDACTED] DHHR Representative

Presiding at the hearing was Cheryl McKinney, State Hearings 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.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section Chapter 15-Appendix B.A.j
West Virginia Income Maintenance Manual Section Chapter 11.6.B.1
West Virginia Income Maintenance Manual Section Chapter 11.4.LL.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- DHR-1 Notification letter dated July 23, 2007
- DHR-2 Copy of Appendix B policy from WV Income Maintenance Manual
- DHR-3 WV Income Maintenance Manual Policy 11.4
- DHR-4 Hearing Summary
- DHR-5 Application for School Clothing Allowance date stamped June 27, 2007

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant submitted a School Clothing Allowance application which was date-stamped in the [REDACTED] County DHHR Office on June 27, 2007 (DHR-5).
- 2) The Claimant's application was processed on July 17, 2007 and a Notice of Decision (DHR-1) was sent which states:

ACTION: Your application for School Clothing Allowance dated 06/27/07 has been denied.

REASON: The amount of assets is more than is allowed for this benefit. Your Countable Assets.....\$15869.96

- 3) The Department testified that at the time of application the Claimant owned a 1995 DVN Pontoon boat valued at \$700.00, a 1995 16 foot boat trailer valued at \$430.00, a 2004 Nissan Frontier crew pick-up valued at \$12,975.00, a 2006 Dodge Ram 2500 Quad valued at \$20,975.00, and a 1996 Chevrolet Camaro coupe valued at \$1250.00. The Department excluded the vehicle with the highest value according to policy, the Dodge Ram. The total value of the rest of the vehicles was \$15,355.00, plus \$514.00 from her checking account balance, for a total of \$15,869.00 assets. The asset limit for School Clothing Allowance is \$2000.00, the same as for WV Works Cash Assistance policy.
- 4) Although the Claimant did not dispute the vehicles were listed in her husband's name, she indicated that the truck belonged to his mother. She stated that they bought the truck in June 2006 and gave it to his mother in July 2006. She stated she was unaware that her husband's mother never changed the title to reflect that this change had occurred.
- 4) West Virginia Income Maintenance Manual Chapter 15, Appendix B,A,j. states the asset limit is \$2000.00. The WV Works asset policy in Chapter 11 applies.
- 5) West Virginia Income Maintenance Manual Section 11.6.B.1 states in pertinent part:

DETERMINING COUNTABLE ASSETS

WV WORKS, AFDC Medicaid

The countable assets of the AG include all assets of the AG members and of individuals excluded by law or disqualified, who would otherwise be required to be included

- 6) West Virginia Income Maintenance Manual Section 11.4.LL.4 states in pertinent part:

WV Works

Note: Equity is not a factor in any step of the process determine countable vehicle assets.

Step 1: Exclusion of One Vehicle

One (1) vehicle is excluded regardless of value. If the client has more than one vehicle, he chooses which vehicle to exclude. The CMV, not equity, of all other vehicles is an asset.

Step 2: Determining Current Market Value (CMV) Of All Non-Excluded Vehicles

The listed trade-in value of the vehicle is used.

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires that all assets of AG members be considered. For vehicles, one vehicle is excluded completely, regardless of value. The other vehicles must be counted and the total Current Market Value (CMV) is considered an asset. The "Trade-in" value of the vehicle is used to determine CMV.
- 2) The Claimant's household legally owned all the vehicles listed by the Department. The Department correctly valued the vehicles, and thus properly determined total countable assets value for this household.
- 3) Evidence is clear that the Claimant's total countable assets were in excess of the maximum allowable asset limit of \$2000.00.

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.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 6thth Day of December, 2007.

**Cheryl McKinney
State Hearing Officer**