



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

September 2, 2008

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 19, 2008. Your hearing request was based on the Department of Health and Human Resources' action to deny eligibility for West Virginia School Clothing Allowance (WVSCA) for three children in your care.

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 (WVSCA) Program is based on current policy and regulations. Some of these regulations state as follows: The payee must be the specified relative with whom the child lives.(WV Income Maintenance Manual Appendix C) The child must be living with a specified relative in a place established as the relative's home. A specified relative is defined as –natural or adoptive parents – blood relatives – legal step-parent, step-brother or sister – legal spouse of any person named in any of the above groups except for spouses of step-relatives. (Chapter 15.2.B of the WV Income Maintenance Manual)

The information which was submitted at your hearing revealed that you are not a specified relative of the children in question.

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to deny WVSCA eligibility for the three children in your care.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Michael Stanley, [REDACTED] DHHR

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

\_\_\_\_\_,

**Claimant,**

v.

**Action Number: 08-BOR-1761**

**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 August 26, 2008 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 August 19, 2008 on a timely appeal, filed July 14, 2008.

It should be noted here that the Claimant received WVSCA benefits for two of her biological children, but was denied eligibility for three other children in her care to whom she is not a specified relative.

**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  
Michael Stanley, Department Hearing Representative

Presiding at the Hearing was Cheryl Henson, 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 their decision to deny WVSCA eligibility for three children in the Claimant's care.

**V. APPLICABLE POLICY:**

Chapter 15, Appendix C, and Chapter 15.2.B of the WV Income Maintenance Manual

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

DHS-1 Copy of WVSCA application dated July 2, 2008  
DHS-2 WV Income Maintenance Manual Section 15.2

**Claimant's Exhibits:**

C-1 Notarized statement giving Claimant custody of three children

**VII. FINDINGS OF FACT:**

- 1) The Claimant submitted an application (DHS-1) for the WV School Clothing Allowance Program on July 2, 2008. In the section marked "household information" she included herself, her daughter and son. She also lists four other children living in the home, and states she is their legal guardian. She indicates all but one of the children is currently enrolled in school. She listed her income as Social Security and SSI totaling \$657.00, and indicated her assets as \$5.00 in a checking account and homestead property.
- 2) The Department determined that Claimant was eligible for WV School Clothing Allowance and sent the Claimant a notification letter which includes the following pertinent information:

ACTION: Your application for School Clothing Allowance dated 07/02/08 has been APPROVED. This is a one time payment for the month of JULY only. You will receive a payment in the amount of : \$400.00

REASON: Your assistance group met all eligibility requirements.

The following individuals are included: \_\_\_\_\_  
\_\_\_\_\_

These people will not receive this benefit:

\_\_\_\_\_ - Does not have a qualifying relationship to the person who applied

\_\_\_\_\_ - Does not have a qualifying relationship to the person who applied

\_\_\_\_\_ - Does not have a qualifying relationship to the person who applied

\_\_\_\_\_ - This individual did not request this benefit.

\_\_\_\_\_ - You will not receive this benefit because you get SSI. Individual is not within School Clothing Allowance age limit

\_\_\_\_\_ - Does not have a qualifying relationship to the person who applied

- 3) The Department testified they determined the Claimant met all the eligibility requirements for the program for her two biological children; however, she did not meet the Specified Relative policy in regard to the four other children in her care. The Department also indicated the Claimant was not receiving Foster Care payments for the children.
- 4) The Department's position is that the Claimant must be a specified relative in order to be eligible for WV School Clothing Allowance for the other children and they are not related to her in any way.
- 5) The Claimant testified that although she is not related to the children, she cares for them as her own. She presented a notarized statement (C-1) from the children's mother giving her sole custody of the four children. The statement is dated August 6, 2007. The Claimant states the children have no clothes for school and she needs assistance in order to provide for them.
- 6) The Department's representative indicated he will request a policy exception from the Policy Unit in order to allow the Department to provide clothing vouchers for the three other eligible children. The record was left open to allow the Department time to

pursue this avenue. The Department later reported that the Policy Unit was unable to make an exception to set aside the specified relative policy in this instance.

- 7) WV Income Maintenance Manual Chapter 15, Appendix C, states the vouchers list the payee as the primary person in the case. This person must be the specified relative with whom the child lives.
- 8) WV Income Maintenance Manual Chapter 15.2.B states in relevant part:

The child must be living with a specified relative in a place established as the relative's home. A specified relative is defined below.

- Natural of adoptive parents.
- Blood relative
- Legal step-parent, step-brother or step-sister
- Legal spouses of any person named in any of the above groups except for spouses of step-relatives.

NOTE: Legal custody or guardianship of a child does not, in itself, qualify a person as a specified relative. A relative of the father of a child born out-of-wedlock can qualify as a specified relative only if the child's paternity has been established.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy states that in order to be eligible for WV School Clothing Allowance for a child, a specified relative relationship must exist. It is also clear that legal custody or guardianship of a child does not qualify a person as a specified relative.
- 2) The Claimant does not dispute the Department's finding that she is not related to the children in question, and can only show that she has been provided a notarized written statement from the children's mother giving her sole custody of the children. This does not qualify her as a specified relative according to policy.
- 3) The Department was correct in the finding that the children not related to the Claimant are not eligible for WV School Clothing Allowance.

#### **IX. DECISION:**

It is the finding of the State Hearing Officer that the Department is **upheld** in the decision to deny eligibility for WV School Clothing Allowance for the children not related to the Claimant.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 2<sup>nd</sup> Day of September, 2008.**

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**Cheryl Henson  
State Hearing Officer**