



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street  
Charleston, WV 25313

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D., Ph.D.  
Cabinet Secretary

September 2, 2011

-----  
-----  
-----

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 1, 2011. Your hearing request was based on the Department of Health and Human Resources' action to deny your July 2011 application for West Virginia School Clothing Allowance (WVSCA).

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 WVSCA Program is based on current policy and regulations. Some of these regulations state that the policy for Eligibility Determination Groups is the same as WV WORKS in Section 9.21, which provides that children must be living with a specified relative in order to be included. (West Virginia Income Maintenance Manual Chapter 15, Appendix C, and Section 9.21)

Information submitted at your hearing shows that you do not have a specified relative relationship with -----; therefore, he cannot be considered in the assistance group for the West Virginia School Clothing Allowance program.

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

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Tera Pendleton, [REDACTED] DHHR

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

IN RE: -----,

**Claimant,**

v.

**ACTION NO: 11-BOR-1635**

**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 for ----- . This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on September 1, 2011.

**II. PROGRAM PURPOSE:**

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.

**II. PARTICIPANTS:**

-----, Claimant  
Tera Pendleton, Department Representative

Presiding at the hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Department was correct to deny the Claimant's application for School Clothing Allowance.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapter 10, Appendix A, Chapter 15.2,B., and Chapter 15, Appendix C

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

**Department's Exhibits:**

- D-1 Case Comments from the Department's RAPIDS computer system
- D-2 Screen Print of Unearned Income screen from Department's computer system
- D-3 Notification letter to Claimant dated July 21, 2011.

**Claimant's Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) The Claimant submitted an application for the School Clothing Allowance program during the month of July 2011. The Department subsequently denied her application and sent her a notification letter dated July 21, 2011, which included the following pertinent information:

ACTION: Your application for School Clothing Allowance dated 07/07/11 has been DENIED.

REASON: Income is too much for you to receive benefits.

The following individuals are ineligible:

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

-----

- 2) The Claimant contends that the Department did not consider ----- when determining her eligibility for the program. She contends that the Department should have included the child in its calculations of financial eligibility and also included him in the benefit. She

states she has court ordered custody of the child although he is not a blood relative, and that she is responsible for his needs. She did not dispute the Department's calculation of her total income, which was determined to be one thousand five hundred twenty-five dollars (\$1525.00). She stated that if the Department considers the child in its calculations she would be eligible for the program.

- 3) The Department contends that policy does not allow it to consider the child when determining eligibility for the School Clothing Allowance program because the child does not meet the criteria to be considered "living with a specified relative." The Department's representative, Tera Pendleton, stated that the Department considered the household to be a two (2) person assistance group when determining eligibility for this program. She added that the maximum allowable income in this instance is one thousand two hundred and twenty-six (\$1226.00).
- 4) The West Virginia Income Maintenance Manual §15.2,B., provides that in order to be considered "living with a specified relative," a child must be living with his or her natural or adoptive parents, or a blood relative – which includes those of half-blood, brothers or sisters, grandparents, great-grandparents, great-great grandparents, great-great-great grandparents, uncles or aunts, great-uncles or aunts, great-great uncles or aunts, nephews or nieces, first cousins, or first cousins once removed; or the legal step-parent, step-brother or step-sister, or legal spouses of any person named in any of the above groups except for spouses of step-relatives.
- 5) The West Virginia Income Maintenance Manual Chapter 15, Appendix C, provides that the total gross non-excluded income for the Assistance Group (AG) is compared to 100% of the Federal Poverty Level (FPL). There are no deductions from the gross non-excluded income.
- 6) The West Virginia Income Maintenance Manual Chapter 10, Appendix A, provides that the 100% FPL for a two person AG is one thousand two hundred twenty-six (\$1226.00); it is one thousand five hundred forty-five dollars (\$1545.00) for a three person AG.
- 7) West Virginia Income Maintenance Manual Chapter 15, Appendix C provides that policy in Section 9.21 of the Manual apply when determining eligibility determination groups. Policy in this section states in pertinent part:

#### A. ASSISTANCE GROUPS

##### 1. Who Must Be Included

The following individuals are required to be included:

All minor, dependent, blood-related and adoptive siblings who live in the same household and are otherwise eligible. For this purpose only, otherwise eligible means living with a specified relative.

The parent(s) of the child(ren) of the child above when the parent(s) lives with the child(ren), unless they fall under any of the categories of who may not be included listed in item 3 of this section.

### C. THE NEEDS GROUP

Countable income is compared to the income limits for the number in the AG [Assistance Group] to determine eligibility and the amount of the benefit.

## VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that children must be living with a specified relative in order to be considered in the AG for West Virginia School Clothing Allowance (WVSCA). Policy provides that a specified relative is defined as either natural or adoptive parents, blood relatives which include those of half-blood, brothers or sisters, grandparents, great-grandparents, great-great grandparents, great-great-great grandparents, uncles or aunts, great-uncles or aunts, great-great uncles or aunts, nephews or nieces, first cousins, or first cousins once removed; or a legal stepparent, step-brother or step-sister; or legal spouses of any person named in any of the above groups except for spouses of step-relatives.
- 2) Policy also provides that a parent and her child living together are both considered in the AG for this program. Additionally, Policy dictates that the maximum allowable income for a two person AG is one thousand two hundred twenty-six dollars (\$1226.00), and the income limit for a three person AG is one thousand five hundred forty-five dollars (\$1545.00).
- 3) The evidence shows that the Claimant did not have a specified relative relationship with ----, and that she does have a specified relative relationship with her daughter, ----. The Claimant is not related to ----; however, she does have court ordered custody of the child as a non-relative.
- 4) Policy is clear in that only children who have a specified relative relationship with someone in the AG may be included in the AG for the West Virginia School Clothing Allowance program. ---- does not have a specified relative relationship and therefore is not eligible to be included in the AG for this program.
- 5) Policy is also clear in that both the Claimant and her child are considered in the AG for this program, and that the countable income of the AG must be compared to the maximum allowable income for a two person household, which is one thousand two hundred twenty-six dollars (\$1226.00).
- 6) The AG's countable income of one thousand five hundred twenty-five dollars (\$1525.00) is more than the maximum allowable income for the West Virginia School Clothing Allowance program.

- 7) The Department was correct in the decision to deny the Claimant's July 2011 West Virginia School Clothing Allowance application.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's decision to deny the Claimant's July 2011 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 2<sup>nd</sup> Day of September, 2011.**

---

**Cheryl Henson  
State Hearing Officer**