



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

Earl Ray Tomblin
Governor

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

September 29, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 29, 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) for your nineteen year old daughter, -----.

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 applicants must meet certain specific requirements, one of which provides that the maximum age requirement is met when the child is not yet age 19 on July 1st of the current program year. (West Virginia Income Maintenance Manual Chapter 15, Appendix C)

Information submitted at your hearing shows that your daughter, -----, was nineteen years of age on July 1st of the current program year, that being the year 2011. Your daughter does not meet the age requirement to be deemed eligible for the West Virginia School Clothing Allowance program. The information also shows that the Department did not send you proper notification of her ineligibility for the 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 for -----, pending proper notification.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Tera Pendleton, Kanawha DHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO: 11-BOR-1786

**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 29, 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 for her nineteen year old daughter, -----.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 15, Appendix C

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Verification from [REDACTED] Community and Technical College showing that Claimant's daughter attends classes
- D-2 Notification letter dated August 10, 2011
- D-3 Copy of desk guide showing specific requirements for children
- D-4 Copy of desk guide showing non-financial tests for School Clothing Allowance

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 requesting that her daughter, -----, be approved for the program along with another daughter, [REDACTED]. The Department subsequently approved the School Clothing Allowance for the Claimant's other daughter, but denied her request for School Clothing Allowance for ----- . The Department sent the Claimant a notification letter dated August 10, 2011, which included the following pertinent information:

ACTION: Your application for School Clothing Allowance dated 07/26/11 has been APPROVED. This is a onetime payment for the month of JULY only. You will receive a payment in the amount of: \$200.00

REASON: Your assistance group met all eligibility requirements.

The following individuals are included:

[REDACTED]

These people will not receive this benefit:

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

----- – This individual did not request this benefit.

- 2) The Department contends that the School Clothing Allowance for ----- was denied because she did not meet the age requirement of being under age nineteen years on July 1, 2011. The Department contends that although the notice (D-2) indicated that she did not apply for the benefit, the actual reason for denial was due to her being nineteen years of age on July 1, 2011.
- 3) The Claimant contends that her daughter should be eligible for the School Clothing Allowance because she is attending classes at a facility in order to obtain her GED [General Equivalency Diploma]. She added that her daughter continues to live in her household and is dependent upon her for support. She stated that her daughter turned twenty years of age on September 3, 2011.
- 4) The West Virginia Income Maintenance Manual §15, Appendix C, provides that to be eligible for the West Virginia School Clothing Allowance, the child must meet the maximum age requirement of being not yet age nineteen on July 1st of the program year.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that children must be under age nineteen on July 1, 2011, in order to meet the age requirements for the West Virginia School Clothing Allowance program for program year 2011.
- 2) The child in question, -----, was nineteen years of age on July 1, 2011, and reached the age of twenty years on September 3, 2011. She clearly does not meet the age requirement to be deemed eligible for the West Virginia School Clothing Allowance program.
- 3) The Department's notice to her (D-2) was not correct as it indicated that she was denied the benefit because she did not apply for it.
- 4) The Department was correct in its decision to deny -----' eligibility for the West Virginia School Clothing Allowance program, but was not correct in its notification of denial to her.

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 for -----, pending proper notification.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of September, 2011.

**Cheryl Henson
State Hearing Officer**