



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 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) due to excessive income because it considered your adoption assistance income as countable income for this program of assistance.

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 total gross non-excluded income for the AG is compared to 100% FPL [Federal Poverty Level]. See Chapter 10, Appendix A. There are no deductions from the gross non-excluded income. Income sources are treated according to the WV WORKS policy in Section 10.3. If the gross non-excluded income is equal to or greater than 100% FPL, the family is ineligible for WVSCA. Adoption Assistance is considered as unearned income for the WV WORKS program and WVSCA. (West Virginia Income Maintenance Manual Chapter 10, Appendix A and Chapter 15, Appendix C)

Information submitted at your hearing shows that your Adoption Assistance income of one thousand eight hundred dollars (\$1800.00) monthly is considered unearned income when determining your eligibility for WVSCA. When considered with your other earned income, your income is excessive for the WVSCA 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-1794**

**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 count the Claimant's Adoption Assistance income of one thousand eight hundred dollars (\$1800.00) monthly when determining her household's eligibility for School Clothing Allowance.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapter 10, Appendix A, Chapter 10.3, and Chapter 15, Appendix C

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

**Department's Exhibits:**

- D-1 Computer Screen prints of income screens from Department's computer system
- D-2 Copy of Chapter 10, Appendix A, Income Limits
- D-3 Notification letter to Claimant dated August 8, 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 (D-3) dated August 8, 2011, which included the following pertinent information:

ACTION: Your application for School Clothing Allowance dated 07/25/11 has been DENIED.

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

- 2) The Department contends that the Claimant's Adoption Assistance income of one thousand eight hundred dollars (\$1800.00) monthly must be considered along with both her and her husband's income from employment when determining the household's financial eligibility for the School Clothing Allowance program.
- 3) The parties agree that, if the Claimant's Adoption Assistance is considered in determining her household's financial eligibility for the School Clothing Allowance program, her household would not be financially eligible for the program. The



Claimant contends that the Adoption Assistance should not be considered as income for this program of assistance. The parties agree that the Claimant's household consists of six persons.

- 4) The West Virginia Income Maintenance Manual Chapter 15, Appendix C, provides that for the West Virginia School Clothing Allowance (WVSCA) program, the total gross non-excluded income for the Assistance Group (AG) is compared to 100% of the Federal Poverty Level (FPL). Policy also provides that income sources are treated according to the WV WORKS policy in Section 10.3. There are no deductions from the gross non-excluded income. If the gross non-excluded income is equal to or greater than 100% FPL, the family is ineligible for the WVSCA program.
- 5) The West Virginia Income Maintenance Manual Chapter 10.3 provides that income from Adoption Assistance is considered unearned income for the WV WORKS program.
- 6) The West Virginia Income Maintenance Manual Chapter 10, Appendix A, provides that the 100% FPL for a six person AG is two thousand five hundred dollars (\$2500.00).

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

- 1) The question for this hearing is whether the Department should consider the Claimant's Adoption Assistance income of one thousand eight hundred dollars (\$1800.00) monthly when determining her household's financial eligibility for the School Clothing Allowance program.
- 2) Policy provides that for the West Virginia School Clothing Allowance program, the total gross non-excluded income for the AG is compared to 100% of the Federal Poverty Level, and that income sources are treated according to the WV WORKS policy in Section 10.3. The policy in Section 10.3 provides that Adoption Assistance is considered unearned income for the WV WORKS program.
- 3) As a result of the above policy, the Claimant's Adoption Assistance income is considered unearned income when determining her household's financial eligibility for the School Clothing Allowance program.
- 4) The parties agreed that if the Adoption Assistance income is considered along with the Claimant's other earned income, the Claimant is not financially eligible for the West Virginia School Clothing Allowance program; therefore, the Department was correct in its decision to deny the Claimant's financial eligibility for the School Clothing Allowance program.



**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 29<sup>th</sup> Day of September, 2011.**

---

**Cheryl Henson  
State Hearing Officer**