



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

November 2, 2012

Dear Ms. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 19, 2012. Your hearing request was based on the Department of Health and Human Resources' failure to approve West Virginia School Clothing Allowance (WVSCA) benefits.

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 that a parent and child must be included in the same WVSCA assistance group (West Virginia Income Maintenance Manual Chapter 9.21), and that there are no deductions from the gross non-excluded income of an assistance group (West Virginia Income Maintenance Manual Chapter 15, Appendix C).

Information provided at your hearing reveals that the Department acted correctly in separating your household into two WVSCA assistance groups and counting the gross income of each assistance group separately.

It is the decision of the State Hearing Officer to **uphold** the denial of the WVSCA application for your daughter.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

CC: Erika Young, Chairman, Board of Review
Judy Schurdell, ESS, WV DHHR, [REDACTED] Office

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

IN RE: ----,

Claimant,

v.

ACTION NO.: 12-BOR-1925

**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 the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This Fair Hearing was convened by videoconference on September 19, 2012, on a timely appeal filed August 6, 2012.

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 percent of the Federal Poverty Level.

II. PARTICIPANTS:

----, Claimant

---- ----, Claimant's Witness

Judy Schurdell, Economic Service Supervisor, WV DHHR, [REDACTED] County Office

Presiding at the hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department acted correctly to deny Claimant's application for the WV School Clothing Allowance (WVSCA) Program due to the income of her WVSCA assistance group.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 9.21 and Chapter 15, Appendix C

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notice of denial of SCA application, dated August 1, 2012
- D-2 Letter confirming fair hearing request, dated August 6, 2012

VII. FINDINGS OF FACT:

- 1) Department's Representative stated that the Department received an application for the West Virginia School Clothing Allowance (WVSCA) Program on behalf of Claimant's daughter on July 31, 2012. She stated that the income for Claimant's WVSCA assistance group (AG) was excessive for this benefit. She testified that the income for the AG was as follows: Social Security Disability, \$922.90/month; money from others, \$251/month; Social Security/Dependent Child, \$166/month; total income, \$1339.90. She stated that the income limit for SCA is \$1261, the Federal Poverty Level for two persons. She added that since Claimant's monthly income is higher than the income limit for a two-person WVSCA assistance group, the application was denied.
- 2) Claimant testified that her income is not as high as the Department contends. She testified that her Medicare Premium in the amount of \$99.90 is deducted from her Social Security Disability amount each month, so her check amount is \$823.00 per month. She stated that the Social Security – Dependent Child benefits she receives for her daughter is \$166 per month; however, in the month in which she made the WVSCA application, the Social Security Administration deducted a \$9 repayment from this amount, so she only received \$157 for July 2012. Claimant did not contest that she receives \$251 per month as a contribution from others.
- 3) Department's Representative stated that the gross amount of Social Security income is counted toward WVSCA eligibility, and no deductions or disregards are considered. However, she added, any repayment amounts are deducted from the gross Social Security amount. Therefore, the amount of income to be counted against the Federal Poverty Level for two persons, \$1261, is as follows: Social Security Disability, \$922.90/month; money from others, \$251/month; Social Security/Dependent Child, \$157/month; total income, \$1330.90.

- 4) Claimant testified that she did not file her hearing request solely because she disagreed with the amount of income attributed to her AG. She stated that she, her adopted daughter, her son and his daughter were and continue to be a family unit, and as such they should be considered one AG for WVSCA purposes. Department's Representative stated that by policy, a parent and his child constitute a separate AG for WVSCA purposes.
- 5) West Virginia Income Maintenance Manual Chapter 15, Appendix C states as follows:

H. ELIGIBILITY DETERMINATION GROUPS

The policy for Eligibility Determination Groups is the same as WV WORKS in Section 9.21.

I. INCOME

The total gross non-excluded income for the AG is compared to 100% of the FPL [Federal Poverty Level] 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 WVSCA. **NOTE:** No deductions or disregards are applied.

- 6) West Virginia Income Maintenance Manual Chapter 9.21 states as follows:

The following individuals are required to be included [in the assistance group]:

- 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) identified above when the parent(s) lives with the child(ren).

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that an assistance group for the West Virginia School Clothing Allowance program shall consist of each parent and his or her dependent child.
- 2) Claimant applied for the WVSCA on July 31, 2012. Her WVSCA AG consisted of herself and her daughter. Also in the household were her adult son and his daughter, who comprised a second WVSCA AG.
- 3) The monthly income for Claimant's WVSCA assistance group was \$1330.90 for the month of application. This amount is more than the income limit for an assistance group of two persons, \$1261.

- 4) The Department acted correctly to deny Claimant's July 31, 2012, application for WVSCA.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny the Claimant's application for the West Virginia School Clothing Allowance Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 2nd Day of November, 2012.

**Stephen M. Baisden
State Hearing Officer**