



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

October 21, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2857

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Beverly Ballengee, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 15-BOR-2857

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision 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 October 13, 2015, on an appeal filed August 18, 2015.

The matter before the Hearing Officer arises from the August 18, 2015, decision by the Respondent to deny the Appellant's application for School Clothing Allowance.

At the hearing, the Respondent appeared by Leslie Bonds, Economic Service Supervisor. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Appellant's Exhibits:

A-1 Form W-2 Wage and Tax Statement for 2014

A-2 Bing.com definition of "Entitle"

A-3 Paystubs dated July 3, 2015, July 17, 2015, July 31, 2015, August 14, 2015, August 28, 2015, September 11, 2015, September 25, 2015, and October 9, 2015

A-4 Foster Care Policy §13.16 (revised date September 2011) Note: Current Policy Section is §5.13 effective September 2015)

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant applied for School Clothing Allowance (SCA) benefits on July 31, 2015. The Department issued a Notice of Decision to the Appellant advising that the total countable income exceeded the allowable limit to receive SCA.
- 2) The Department calculated the Appellant's income as \$5,889. The income limit for SCA for an Assistance Group of seven (7) is \$3,061 a month.
- 3) The Appellant's five (5) children each receive \$600 a month in Adoption Assistance and two (2) of the children each receive \$168 a month in Social Security benefits. The Appellant's children were legally adopted a year ago.
- 4) The Appellant's earned income (A-3) for July 2015 was \$1,149.20 received July 3, \$937.87 received July 17 and \$968.70 received July 31.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 15 Appendix C Section I states that for the SCA program, 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. Income is prorated and converted as appropriate to determine a monthly amount as it is for WV WORKS. If the gross non-excluded income is equal to or greater than 100% FPL, the family is ineligible for SCA. No deductions or disregards are applied. For SCA, income eligibility is based only on the month of July, the program month.

West Virginia Income Maintenance Manual §10.3B, states that Adoption Assistance counts as unearned income for SCA.

West Virginia Income Maintenance Manual §10.3UUU, states that Social Security benefits count as unearned income for SCA.

West Virginia Income Maintenance Manual Chapter 10 Appendix A, states that 100% FPL for an AG of seven (7) is \$3,061.

West Virginia Income Maintenance Manual §9.21B, states that all non-excluded income for the AG is counted in determining eligibility for SCA.

Foster Care Policy §5.13 states that all school-aged children placed in **family foster/adoptive care** are eligible for an annual school clothing allowance each year.

DISCUSSION

The Appellant contended that the Respondent incorrectly calculated her income and that she only made \$21,000 the previous year. Additionally, the Appellant argued that according to Foster Care policy, her children are entitled to receive SCA.

The Appellant legally adopted her children and therefore her children are no longer considered in foster/adoptive care. Once legal custody of the children was transferred to the Appellant as a result of the finalized adoption, the income limits as found in the West Virginia Income Maintenance Manual must be used to determine eligibility for the SCA program.

The Appellant's July income was averaged as \$1,018.59 (the total of all three (3) paychecks received in July and divided by 3). This amount is multiplied by 2.15 as the Appellant is paid bi-weekly, for an average monthly amount of \$2189.96. The Appellant's five (5) school-aged children each receive Adoption Assistance of \$600 monthly, and two of the children receive \$168 each in Social Security benefits. Per policy all non-excluded income of the Assistance Group is counted in determining SCA eligibility. The total countable income for the Appellant's Assistance Group is \$5,189.96 which exceeds the allowable limit of \$3,061.

CONCLUSIONS OF LAW

Whereas the total countable income for the Appellant's Assistance Group exceeds the allowable limit to receive School Clothing Allowance benefits, the Respondent was correct to deny the Appellant's application.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to deny the Appellant's application for School Clothing Allowance.

ENTERED this 21st day of October 2015

**Kristi Logan
State Hearing Officer**