



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

October 27, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2946

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,

Donna L. Toler
State Hearing Officer
Member, State Board of Review

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

cc: Christina Brown, Family Support Specialist

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

████████████████████,

Appellant,

v.

Action Number: 15-BOR-2946

**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 27, 2015, on an appeal filed August 31, 2015.

The matter before the Hearing Officer arises from the July 31, 2015 decision by the Respondent to deny the Appellant's application for School Clothing Allowance (SCA) benefits.

At the hearing, the Respondent appeared by Christina Brown, Family Support Specialist. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were entered into evidence.

Department's Exhibits:

- D-1 Correspondence from DHHR ██████████ County to Appellant, dated July 31, 2015
- D-2 SCA Budget computer screen print, dated August 21, 2015
- D-3 ██████████, paystubs for the Appellant, dated June 26, 2015, July 10, 2015 and July 24, 2015
- D-4 SCA Budget computer screen print, dated September 30, 2015
- D-5 Correspondence from DHHR ██████████ County to Appellant, dated October 1, 2015
- D-6 Case Comments computer screen prints, dated March 26, 2015 through September 30, 2015 (excerpts)
- D-7 West Virginia Income Maintenance Manual, Chapter 15, Appendix B and Appendix C

Appellant's Exhibits:

None

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 29, 2015 (Exhibit D-6).
- 2) The Department mailed the Appellant a notice of decision dated July 31, 2015, that her application for SCA was denied due to excessive income. The notice indicated that the Appellant's monthly gross income totaled \$1823.89, with an income limit of \$1675.00 for the program. Income was determined by finding the average of the Appellant's submitted pays and multiplying by the bi-weekly multiplier of 2.15. (Exhibit D-1)
- 3) At the time of application, the Appellant reported her only source of income was through her employment. The Appellant was paid bi-weekly and provided paystubs received on June 26, 2015, July 10, 2015 and July 24, 2015. The paystub received on June 26, 2015, was not included in the Department's calculations. (Exhibits D-3 and D-6)
- 4) On July 10, 2015, the Appellant received gross earnings in the amount of \$905.59. On July 24, 2015, the Appellant received gross earnings in the amount of \$808.05. (Exhibit D-3)
- 5) On September 30, 2015, the Department's representative re-evaluated the Appellant's SCA application and excluded holiday pay (\$82.40) and overtime (\$17.00) received by the Appellant on her July 10, 2015 pay. (Exhibits D-3 through D-6)
- 6) The Department mailed the Appellant a second notice of decision dated October 1, 2015, that her application for SCA was denied due to excessive income. The notice indicated that the Appellant's monthly gross income totaled \$1734.72, with an income limit of \$1675.00. Income was determined by finding the average of the Appellant's submitted pays (less the aforementioned excluded income) and multiplying by the bi-weekly multiplier of 2.15. (Exhibit D-5)
- 7) The Appellant's gross income for the month of July 2015, without exclusions and deductions totaled \$1731.64 (\$905.59 + 808.05). (Exhibit D-3)

APPLICABLE POLICY

WV IMM §9.21.B, defines the SCA income group, stating that the “non-excluded income of all AG members is counted.”

WV IMM §9.21.C, the policy regarding the SCA needs group reads, “Countable income is compared to the income limits for the number in the AG to determine eligibility and the amount of the benefit.”

WV IMM, Chapter 15, Appendix C, Section I, establishes the SCA income limit as “100% [Federal Poverty Level],” and provides for “no deductions from the gross non-excluded income.” This policy also indicates that SCA countable income sources mirror those set for WV WORKS and notes that for SCA, income eligibility is based only on the month of July, the program month.

WV IMM, Chapter 10, Appendix A, consists of a table showing income limits. This table shows 100% of the Federal Poverty Level for three (3) persons is \$1675.

DISCUSSION

The Appellant is appealing the Department’s decision to deny SCA benefits based on excessive income. Both the July 31 and October 1 decisions of the Department were based on calculations which prorated and converted the Appellant’s monthly income. That income was then compared to an income limit based on the countable persons in the Appellant’s household.

The Department initially assessed the Appellant’s gross income for the month of July 2015 by proration and conversion (determining the monthly average and multiplying by 2.15). Policy requires that when determining eligibility for SCA, only income received in the month of July is used to determine eligibility and is not prorated and converted as it would be for other eligibility programs.

While the Department demonstrated good intentions in re-calculating the Appellant’s income excluding overtime and holiday pay from her gross monthly income, policy does not permit such deductions.

Because policy does not permit deductions from gross non-excluded income, the total gross income received by the Appellant in the month of July 2015 was \$1731.64, and in excess of the \$1675 limit established by policy for three (3) persons.

CONCLUSION OF LAW

Because the Appellant’s income of \$1731.64 exceeds the SCA income limit of \$1675, the Department must deny the Appellant’s School Clothing Allowance application.

DECISION

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

ENTERED this ____ Day of October 2015.

**Donna L. Toler
State Hearing Officer**