



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

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Jolynn Marra
Interim Inspector General

October 10, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 19-BOR-2042

Dear Ms. [REDACTED]

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

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Amy Jordan, DHHR / Elizabeth Kennedy, DHHR

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

██████████,

Appellant,

v.

Action No.: 19-BOR-2042

**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 August 8, 2019, on an appeal filed July 16, 2019.

The matter before the Hearing Officer arises from the Respondent's July 17, 2019 decision to deny the Appellant's School Clothing Allowance (SCA) application.

At the hearing, the Respondent appeared by Amy Jordan. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- D-1 Notice of decision, dated July 17, 2019
- D-2 West Virginia Income Maintenance Manual (WVIMM), Chapter 19.4 (excerpt)

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) on July 8, 2019, on behalf of “Child [REDACTED]” and “Child [REDACTED]” – two school-aged children.
- 2) By notice dated July 17, 2019 (Exhibit D-1), the Respondent notified the Appellant that her SCA application was denied.
- 3) This notice (Exhibit D-1) provided the basis for SCA denial and read, “No one for whom benefits were requested meets all the program requirements for this category of assistance.”
- 4) The notice (Exhibit D-1) provided additional detail regarding this basis that was specific to Child [REDACTED] and Child [REDACTED], which read, “Does not have a qualifying relationship to the person who applied.”
- 5) The Appellant and her husband have legal custody of Child [REDACTED] and Child [REDACTED]
- 6) The Appellant and her husband do not have a “specified relative” or “caretaker relative” relationship with Child [REDACTED] or Child [REDACTED]

APPLICABLE POLICY

At §19.4.2, the West Virginia Income Maintenance Manual (WVIMM) indicates the eligibility determination groups for SCA “...are the same as for WV WORKS.”

At §3.4.1.C, the WVIMM lists the individuals who may choose to be included in a WV WORKS assistance group (AG). This list includes “Caretaker relatives, who are not natural or adoptive parents, and stepparents when the parent is not in the home.”

At §3.4.1.A, the WVIMM lists the individuals who must be included in a WV WORKS AG. This list includes, “All minor, dependent, blood-related, and adoptive siblings who live in the same household **with a specified relative.**” (emphasis added)

At §3.3.2, the WVIMM details the requirements regarding a dependent child and a specified relative. This policy reads, “The child **must be living with a specified relative**, who assumes primary responsibility for the child’s care, in a place established as the relative’s home. In order for an individual to be a caretaker relative, he must be a specified relative. **Legal custody or guardianship of a child does not, in itself, qualify a person as a specified relative.**” (emphasis added)

WVIMM, §3.3.2, additionally defines a specified relative as being one of three categories – natural or adoptive parents, blood relatives, and step relatives – and provides the following lists for blood and step relatives:

Blood relative: Those of half-blood, brothers or sisters, grandparents, great-grandparents, great-great grandparents, great-great-great grandparents, uncles or aunts, great-uncles or aunts, great-great uncles or aunts, nephews or nieces, first cousins, first cousins once removed.

Legal stepparent, stepbrother or stepsister, step-grandparents, step-great-grandparents, step-great-great grandparents, step-great-great-great grandparents, step-uncles or aunts, step-great-uncles or aunts, step-great-great uncles or aunts, step-nephews or nieces, step-first cousins, step-first cousins once removed.

DISCUSSION

The Appellant requested a fair hearing based on the decision of the Respondent to deny the Appellant's application for SCA based on the lack of a qualifying relationship. The Respondent must show by a preponderance of evidence that the Appellant did not have a qualifying relationship with the children for whom she applied for SCA.

The policy regarding the assistance group (AG) for SCA mirrors that of WV WORKS. WV WORKS requires the dependent child(ren) to be in the home "living with a specified relative." This specified relative designation is not determined solely by legal custody or guardianship. In the Appellant's case, there was no dispute that the Appellant did not meet this specified relative designation. The Appellant testified that she and her husband have "full, legal custody" of Child [REDACTED] and Child [REDACTED], but that they are "not related." There was no testimony or evidence from either party of finalized adoption procedures, any blood relationship or any step relationship between the Appellant and the children. Without this necessary link to construct an AG for WV WORKS/SCA, the Respondent was correct to deny the Appellant's application for SCA.

CONCLUSION OF LAW

Because the Appellant's household did not establish the required link between dependent child and specified relative for WV WORKS and SCA eligibility, the Respondent must deny the Appellant's application for SCA.

DECISION

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

ENTERED this ____ Day of October 2019.

Todd Thornton
State Hearing Officer