

Thanks



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

**Bill J. Crouch**  
Cabinet Secretary

**Board of Review**  
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**Jolynn Marra**  
Interim Inspector  
General

November 2, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 20-BOR-2173

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 Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson, MLS  
State Hearing Officer  
State Board of Review

Enclosure: Appellant's Recourse  
Form IG-BR-29

cc: David Griffin, [REDACTED] County DHHR

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

████████████████████,

**Appellant,**

v.

**ACTION NO.: 20-BOR-2173**

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on October 21, 2020 an appeal filed September 17, 2020.

The matter before the Hearing Officer arises from the September 3, 2020 determination by the Respondent to deny the Appellant eligibility for School Clothing Allowance (SCA) benefits.

At the hearing, the Respondent appeared by David Griffin, ██████████ County DHHR. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 DHHR Notice, dated September 3, 2020
- D-2 West Virginia Income Maintenance Manual (WVIMM) § 19.4
- D-3 WVIMM § 3.3.2

**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 following Findings of Fact are set forth.

## FINDINGS OF FACT

- 1) The Appellant is the legal guardian of child [REDACTED] and applied for School Clothing Allowance (SCA) eligibility on child [REDACTED] behalf (Exhibit D-1).
- 2) On September 3, 2020, the Respondent issued a notice advising the Appellant that she was ineligible for WV SCA due to child [REDACTED], not having a qualifying relationship with the Appellant (Exhibit D-1).
- 3) The Appellant is not a specified relative of child [REDACTED] (Exhibit D-3).

## APPLICABLE POLICY

**West Virginia Income Maintenance Manual (WVIMM) §§ 19.4.1 through 19.4.3.A provides in part:**

All appropriate WV WORKS requirements in Chapter 2 apply. The Eligibility Determination Groups are the same as for WV WORKS. See Section 3.4

To be eligible for the WV WORKS SCA or WV SCA, the child must meet the eligibility requirements or be eligible for WV WORKS for July of the current program year

**WVIMM § 3.3.2 provides in part:**

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 .... Legal custody or guardianship of a child does not, in itself, qualify a person as a specified relative. A specified relative is any relation established by blood, step-relative relationship, or adoption who is within the fifth degree of kinship to the dependent child.

## DISCUSSION

The Appellant contested the Respondent's denial of her eligibility for School Clothing Allowance (SCA) benefits for child [REDACTED]. The Respondent argued that the Appellant's SCA eligibility was denied due to the Appellant not having a qualifying relationship with child [REDACTED].

To be eligible for SCA benefits, the policy requires the applicant to meet WV WORKS eligibility requirements. To be eligible for WV WORKS, the policy requires that the child be living with a specified relative. Pursuant to the policy, a specified relative is any relation by blood, step-relative relationship, or adoption. The Respondent had to prove by a preponderance of evidence that the Appellant was not a specified relative related to child [REDACTED] by blood, step-relative relationship, or adoption.

The Respondent argued that the Appellant was not a specified relative of child [REDACTED]. While the Appellant argued that she has had legal custody of child [REDACTED] since child [REDACTED] was age two, no evidence was entered to establish that the Appellant had adopted child [REDACTED], that a step-relative relationship existed, or that the Appellant was related to child [REDACTED] by blood. During the hearing, the Appellant's testimony affirmed that there was no blood relationship with [REDACTED].

### **CONCLUSIONS OF LAW**

- 1) To be eligible for School Clothing Allowance (SCA) benefits, child [REDACTED] was required to be living with a specified relative.
- 2) The Appellant is not a specified relative of child [REDACTED].
- 3) The Respondent correctly denied the Appellant's eligibility for SCA benefits.

### **DECISION**

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

ENTERED this 2<sup>nd</sup> day of November 2020.

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**Tara B. Thompson, MLS**  
State Hearing Officer