



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General**

**Joe Manchin III
Governor**

**Board of Review
P.O. Box 1736
Romney, WV 26757**

**Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary**

October 6, 2010

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 23, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to deny your application for the West Virginia School Clothing Allowance program.

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 School Clothing Allowance (SCA) program is based on current policy and regulations. These regulations provide that all recipients must meet income and asset guidelines for eligibility in the SCA program. The guidelines state that the gross non-excluded income for the household must not exceed 100% of the Federal Poverty Level and that the household's countable assets must not exceed \$2000.00. Additionally, policy stipulates that no person may be included in more than one WV WORKS household for the same month (West Virginia Income Maintenance Manual Chapter 8.5, 11.4 and 15).

The information which was submitted at your hearing revealed that a member of your household had previously received School Clothing Allowance assistance in another case therefore, the individual was ineligible for consideration in your SCA application. Based on your countable income for your household size of five, the Department was correct in its decision to deny your application based on excessive income and assets.

It is the decision of the State Hearing Officer to Uphold the action of the Department to deny the Claimant's School Clothing Allowance application based on excessive income and assets for a household size of five.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Ann Hubbard, ESS

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

-----,

Claimant,

v.

Action Number: 10-BOR-1722

**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 on September 23, 2010 on a timely appeal, filed July 27, 2010. It shall be noted that the hearing was originally scheduled for September 1, 2010 and rescheduled based on the Department's request.

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% of the Federal Poverty Level.

III. PARTICIPANTS:

-----, Claimant (participated telephonically)
Ann Hubbard, Economic Services Supervisor

Presiding at the hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its decision to deny the Claimant's application for the WV WORKS School Clothing Allowance program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 15 and Chapter 6.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Computer printout of household composition
- D-3 Computer printout of household earned income
- D-4 Computer printout from Division of Motor Vehicles
- D-5 Computer printout of household liquid assets
- D-6 Notice of Decision dated July 15, 2010
- D-7 West Virginia Income Maintenance Manual Chapter 15 Appendix C Section I
- D-8 West Virginia Income Maintenance Manual Chapter 10 Appendix A
- D-9 West Virginia Income Maintenance Manual Chapter 11.4
- D-10 West Virginia Income Maintenance Manual Chapter 15 Appendix C Section J
- D-11 West Virginia Income Maintenance Manual Chapter 11.3
- D-12 West Virginia Income Maintenance Manual Chapter 8.5

VII. FINDINGS OF FACT:

- 1) On July 19, 2010, the Claimant completed an application for the School Clothing Allowance program, hereinafter SCA. The Claimant reported that her household composition consisted of herself, her cohabiter, two of her own children, a common child with her cohabiter, and her cohabiter's child (Exhibit D-2). Ann Hubbard, Economic Service Supervisor testified that on June 30, 2010, the Claimant's cohabiter's son was removed from his mother's household and placed in his father's household by the Department's Child Protective Services unit. Ms. Hubbard stated that the worker processing the SCA application verified that the cohabiter's son received SCA assistance in his mother's case and his prior receipt of the benefit resulted in the child's ineligibility to receive SCA benefits in the Claimant's case. Due to the child's prior receipt of SCA benefits, the Department evaluated the remaining five eligible members of Claimant's household to determine the household's eligibility for the program.
- 2) The Claimant verified that she receives earned income of \$1039.41 on a bi-weekly basis. Ms. Hubbard indicated that the Claimant's monthly income was calculated at \$2234.73 (\$1039.41 multiplied by 2.15). Ms. Hubbard explained that when determining eligibility for the SCA program, policy requires that the non-excluded income for the household group size must not exceed 100% of the Federal Poverty Level. Ms. Hubbard provided Exhibit D-8, West Virginia Income Maintenance Manual Chapter 10 Appendix A to demonstrate that the household's income was compared to 100% of the Federal Poverty Level for a household size of five or \$2150.00. Ms. Hubbard purported that monthly income of \$2234.73 exceeded the \$2150.00

income limit for the household. Ms. Hubbard purported that the excessive income resulted in the financial ineligibility of the SCA program for the household.

- 3) Ms. Hubbard purported that the worker processing the application obtained verification through the Division of Motor Vehicles (DMV) database that the Claimant owns a 2001 Toyota Camry, as well as a 2005 Nissan Quest. Ms. Hubbard indicated that the 2001 Toyota Camry was assessed a trade-in value of \$3175.00 and the 2005 Nissan Quest was assessed a trade-in value of \$5500.00. Ms. Hubbard testified that policy requires that the Nissan Quest be exempted from the asset calculation, as the vehicle has the greatest trade-in value (Exhibit D-9).

Ms. Hubbard stated the SCA program has an asset limit of \$2000.00 (Exhibit D-11). The Department determined the household's total countable assets to be \$3210.94, which was excessive for eligibility purposes. This total was derived from the \$3175.00 trade-in value of the Toyota Camry along with the household's checking and savings account of \$35.94.

- 4) On July 15, 2010, the Department issued Exhibit D-6, Notice of Decision which informed the Claimant that her application for SCA assistance had been denied. Exhibit D-6 documents in pertinent part:

Action: Your application for School Clothing Allowance dated July 9, 2010 has been denied.

Reason: Income is too much for you to receive benefits. The amount of assets is more than is allowed for this benefit. The amount of assets is more than is allowed for this benefit.

This exhibit also notes that the Claimant's cohabiter's son was ineligible to receive SCA assistance in the assistance group due to his prior receipt of the benefit.

- 5) The Claimant purported that on July 1, 2010 her cohabiter met with the Department's Child Protective Services unit to complete paperwork and obtain custody of his son. On July 2, 2010, she attempted to add the child to her household benefits, but was unsuccessful until July 6, 2010 due to office closure. The Claimant stated that while adding the child to her household, she was informed that her Supplemental Nutrition Assistance Program (SNAP) benefits would not increase until the following month due to the child's prior receipt of SNAP benefit in his mother's case for the month of July.

The Claimant disputes that the removal of the child from her household calculation resulted in the denial of her own children's assistance. The Claimant testified that she has supported six members of her household since the addition of her cohabiter's son and continues to support all household members to the present date. The Claimant believes that all of the children should not be denied SCA benefits since the child in question was removed late from his mother's household. The Claimant acknowledged that her cohabiter's son received SCA benefits in his mother's household and the benefits were provided to him from his mother for his use. Additionally, the denial of the SCA benefits has removed her household from consideration of the additional stimulus funds provided to SCA eligible households from the Department.

- 6) The Claimant contends that her verified income is within the income limits for an assistance group size of six and the additional child should be attributed towards this calculation. The

Claimant acknowledged that the asset calculation for the Nissan Quest is correct, however the Toyota Camry is no longer in her possession, as she sold the vehicle prior to the purchase of the Nissan Quest. She believes that the purchaser of the Toyota Camry did not relate the purchasing information to the DMV, thus it appears to still be in her possession. During the hearing process, the Claimant did not provide any evidence to demonstrate that the Toyota Camry had been removed from her possession with the DMV.

- 7) Ms. Hubbard responded to the Claimant's testimony concerning the removal of the child from his mother's household, indicating that Departmental policies require a thirteen day notice of any decrease in benefit. Ms. Hubbard indicated the Department would have required notice of the removal of the child thirteen days prior to June 30, 2010 in order to provide notification of adverse action concerning the removal of the child to the child's mother. Ms. Hubbard indicated that the notice of the child's change in residence was received too late in the month and the Department could not make the change in both cases until August 2010. Ms. Hubbard stated that additional policies do not allow any individual to receive duplicate benefits for the same month therefore, the child was ineligible to receive SCA benefits in the Claimant's household.

- 8) West Virginia Income Maintenance Manual Chapter 15 Appendix C documents in pertinent part:

The total gross non-excluded income for the AG is compared to 100% FPL. See Chapter 10 Appendix A. There are no deductions from the gross non-excluded income. Income sources are treated according to the WV WORKS policy in Section 10.3.

...

If the Gross non-excluded income is equal to or greater than 100% FPL, the family is ineligible for WVSCA.

...

The asset limit is \$2000.00. The WV WORKS asset policy in Chapter 11 applies to WVSCA. If countable assets exceed \$2000.00, the case is not eligible for WVSCA.

- 9) West Virginia Income Maintenance Manual Chapter 8.5 documents in pertinent part:

WV WORKS

No person may be included in more than one WV WORKS AG for the same month.

- 10) West Virginia Income Maintenance Manual Chapter 6.3 documents in pertinent part:

A client must receive advance notice in all situations involving adverse actions except those described in Section 6.3, C, 2. The advance notice requirement is that notification be mailed to the client at least 13 days prior to the first day of

the month in which the benefits are affected. The date on the notice must be the date it is mailed.

VIII. CONCLUSIONS OF LAW:

- 1) Policies that govern all Departmental assistance programs require a thirteen day notification of advance notice to the recipient regarding any adverse action or change to the recipients benefits. Additionally, such policies require that no person may be included in more than one assistance group for the same month. Policy dictates that the School Clothing Allowance has an asset limit of \$2000.00 and that countable income of the household may not exceed 100% of the Federal Poverty Level for the household size.
- 2) The Claimant informed the Department of an additional member to her household in July 2010, the same month in which she applied for School Clothing Allowance assistance. The child in question had previously received School Clothing Allowance assistance in another case therefore, the child was ineligible to receive SCA benefits in the Claimant's household. The Department's income calculations were based on five eligible household members with the household's countable income being excessive for the income guidelines established for 100% of the Federal Poverty Level, therefore the Department was correct in its decision to deny the Claimant's application due to excessive income.
- 3) The Department provided evidence to demonstrate that the Claimant owns two vehicles, a 2001 Toyota Camry and a 2005 Nissan Quest. According to testimony and policy, the Department excluded the 2005 Nissan Quest, however the 2001 Toyota Camry combined with the household liquids assets were determined excessive for the assets guidelines. The Claimant provided no evidence to the contrary to ascertain that she no longer owns the 2001 Toyota Camry therefore, the Department was correct in its decision to deny the SCA application due to excessive assets.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the decision of the Department to deny the Claimant's application for School Clothing Assistance.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ day of October 2010.

Eric L. Phillips
State Hearing Officer