



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

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

October 19, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 12, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to deny your application for School Clothing Allowance due to excessive assets.

In arriving at a decision, the State Hearings 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 Program is based on current policy and regulations. These regulations provide that if the title of a vehicle is in an individual's name and the individual indicates he no longer owns the vehicle, the vehicle is presumed to be his unless he can prove otherwise (WV Income Maintenance Manual § 11.4 VV).

The information submitted at your hearing revealed that the 2003 Buick Rendezvous was repossessed in June 2010 and should not have been counted in determining countable assets for the School Clothing Allowance program.

It is the decision of the State Hearings Officer to **Reverse** the action of the Department to deny your School Clothing Allowance application due to excessive assets.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Fred Burns, Economic Service Supervisor

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

-----,

Claimant,

v.

Action Number: 10-BOR-1795

**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 concluded on October 12, 2010 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.

II. PROGRAM PURPOSE:

The Program entitled School Clothing Allowance (SCA) is administered by the West Virginia Department of Health & Human Resources.

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

-----, Witness for Claimant

-----, Title Clerk, [REDACTED] Used Auto Sales (testified by phone)

-----, Sales Representative, [REDACTED] Used Auto Sales (testified by phone)

Fred Burns, Economic Service Supervisor

Presiding at the Hearing was Kristi Logan , 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's decision to deny Claimant's School Clothing Allowance application was correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 11.3 and 11.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification of Pre-Hearing Conference
- D-2 Correspondence to Claimant dated August 19, 2010
- D-3 Denial Notification Letter dated August 13, 2010
- D-4 Department of Motor Vehicles Registration Inquiry and Kelley Blue Book Values
- D-5 WV Income Maintenance Manual § 11.3
- D-6 Liquid Assets Screen (AALA) from RAPIDS Computer System

Claimants' Exhibits:

- C-1 Notice of Repossession from Prudence Used Auto Sales dated May 19, 2010

VII. FINDINGS OF FACT:

- 1) Claimant applied for School Clothing Allowance (SCA) on July 21, 2010. A denial notification letter was issued by the Department on August 13, 2010 which read in pertinent part (D-3):

Your application for School Clothing Allowance dated 7/21/10 has been denied. The amount of assets is more than is allowed for this benefit.

- 2) Fred Burns, Economic Service Supervisor, testified that Claimant has two (2) vehicles listed in her name with the Department of Motor Vehicles (DMV); a 2003 Buick Rendezvous and a 1999 Dodge Durango. Mr. Burns stated the values of these vehicles as used in determining eligibility for SCA according to Kelley Blue Book are \$2,850 and \$2,000 respectively (D-4).

Mr. Burns stated the Buick Rendezvous was excluded and the value of the Dodge Durango was used in the eligibility determination. Claimant also had stock with Wal-Mart valued at \$83.33 (D-6). The total countable assets for Claimant's household were \$2,083.33 which exceeded the \$2,000 asset limit for SCA. Mr. Burns stated three (3) additional unlicensed vehicles were found in DMV for Claimant, a 1994 Chevrolet Lumina, 1986 Audi 5000 S and a 1995 Oldsmobile Calais, that were not used in determining Claimant's assets for SCA.

- 3) -----, Claimant's husband, testified that they have not had the Chevrolet Lumina, Audi 5000 S or the Oldsmobile Calais for several years. -----stated they still owned the 1999 Dodge Durango but the 2003 Buick Rendezvous was repossessed in May 2010. -----stated they had the Rendezvous towed back to [REDACTED] Auto on May 12, 2010 after the engine "blew". -----stated they had problems with the vehicle ever since they bought it and were behind in the payments. They decided to return the vehicle to [REDACTED] Auto where it was purchased as they no longer wanted it.
- 4) -----, Title Clerk with [REDACTED] Auto, testified that the Rendezvous was considered repossessed on July 28, 2010. When questioned when Claimant and -----actually lost possession of the vehicle, -----was unsure, saying it was most likely 10 days prior.
- 5) -----, Sales Representative with [REDACTED] Auto, testified that the Buick Rendezvous was towed there on May 12, 2010 at which time they replaced its motor. -----stated the vehicle sat on the lot for a long time, giving Claimant opportunity to catch up on their payments. -----verified that the Buick Rendezvous did not leave [REDACTED] lot after it was towed in May 2010.
- 6) -----produced the notice of repossession he received from [REDACTED] Auto dated May 19, 2010 which read in pertinent part (C-1):

If your payment of \$315.00 is not received in this office within ten days, your vehicle will be recovered by cure on Default of contract. According to West Virginia Code § 46A-2-106, after five days late the consumer enters a default period. The default period lasts for ten additional days.

- 7) WV Income Maintenance Manual § 11.3 states:

To be eligible for programs administered by the Division of Family Assistance, the total amount of countable assets cannot exceed the amounts which are listed in the following chart:

WV WORKS [including SCA]: \$2,000

- 8) WV Income Maintenance Manual § 11.4 VV states:

The owner of a vehicle is generally the individual to whom it is titled. However, when the title of a vehicle is not in the client's name, but the client states he is the owner, the vehicle is counted as the client's asset. If the title is in the client's name, and he indicates the vehicle no longer belongs to him, and the name on the title has not been changed, the vehicle is presumed to be his, unless he can prove otherwise. Only those vehicles of members of the AG, individuals who are disqualified or excluded by law and who would otherwise be required to be included, are considered when determining vehicle assets.

- 9) WV Income Maintenance Manual § 11.4 VV(4) states:
One (1) vehicle is excluded regardless of value.

VIII. CONCLUSIONS OF LAW:

- 1) Claimant's School Clothing Allowance application was denied due to excessive vehicle assets based on the assumption that Claimant legally owned the 2003 Buick Rendezvous and the 1999 Dodge Durango as listed in the Department of Motor Vehicles Registration System.
- 2) The documentation provided by Claimant indicated the 2003 Buick Rendezvous was repossessed in May 2010. Claimant had until June 8, 2010 to cure the payment default. Claimant was unable to cure the default and therefore the vehicle was repossessed by [REDACTED] Used Auto Sales.
- 3) Claimant no longer owned the 2003 Buick Rendezvous as of July 2010 when the School Clothing Allowance program opened. Claimant's remaining vehicle, the 1999 Dodge Durango and its value is exempt from asset determination. Claimant's assets are below the \$2,000 asset limit for School Clothing Allowance.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th day of October 2010.

**Kristi Logan
State Hearing Officer
Member, Board of Review**