



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street  
Charleston, WV 25313

Earl Ray Tomblin  
Governor

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

December 1, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 18, 2010. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for West Virginia School Clothing Allowance (WVSCA) dated July 6, 2010 based on excessive income.

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 West Virginia School Clothing Allowance Program is based on current policy and regulations. Some of these regulations state that income is prorated and converted as appropriate to determine a monthly amount as it is for WV WORKS. If appropriate, income must be updated in RAPIDS. If the gross non-excluded income is equal to or greater than 100% FPL [Federal Poverty Level], the family is ineligible for WVSCA (West Virginia Income Maintenance Manual Chapter 15, Appendix C)

Information submitted at your hearing fails to demonstrate that the Department computed your income eligibility according to policy requirements in Chapter 15, Appendix C of the West Virginia Income Maintenance Manual.

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying your School Clothing Allowance application.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Tera Pendleton, [REDACTED] DHHR

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-2072**

**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 November 18, 2010 on a timely appeal filed August 16, 2010.

**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.

**II. PARTICIPANTS:**

-----, Claimant

Tera Pendleton, Department Representative

Presiding at the hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Department took the correct action in denying the Claimant's WVSCA application based on excessive income.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapter 15, I and Chapter 15, Appendix C  
West Virginia Income Maintenance Manual Chapter 10.24.A

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Case Comments from the Department's RAPIDS computer system
- D-2 Application for WVSCA dated July 6, 2010
- D-3 Various income verification pages (14 pages)
- D-4 Employment and income screens from Department's RAPIDS computer system (4 pages)
- D-5 Notification letter dated July 15, 2010
- D-6 School Clothing Allowance Budget screen from Department's RAPIDS computer system

**Claimant's Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) The Claimant was actively receiving SNAP benefits when she submitted an application (D-2) for West Virginia School Clothing Allowance (WVSCA) on July 6, 2010. On the application, she indicated that both she and the father of her children were living in the household, along with their two (2) children, and that both were employed. She indicated that she worked at [REDACTED] and earned one hundred twenty dollars (\$120.00) every two weeks, and that the children's father worked at [REDACTED] and earned two hundred fifty dollars (\$250.00) every week.
- 2) Because the Claimant had recently completed a Supplemental Nutrition Assistance Program (SNAP) review interview with the Department on June 11, 2010 which required her to provide recent income verification for that program of assistance, the Department utilized the income calculations available in its computer system at the time of that update to determine the Claimant's eligibility for WVSCA in July 2010, and did request more current income verification from the Claimant.
- 3) The Department subsequently denied the application based on excessive income and sent the Claimant a notification letter (D-5) which included the following pertinent information:

ACTION: Your application for School Clothing Allowance dated 07/06/10 has been DENIED.

REASON: Income is too much for you to receive benefits.

Your Gross Income.....= 1846.27

School Clothing Allowance Income Limit.....= 1838.00

- 4) The West Virginia Income Maintenance Manual Chapter 10, Appendix A and Chapter 15, I., provides that the Income Limit for WVSCA for a household containing four (4) assistance group members is compared to the 100% FPL[Federal Poverty Level], and is one thousand eight hundred thirty eight (\$1838.00).
- 5) The Department's representative, Tera Pendleton, is an Income Maintenance Specialist employed at the [REDACTED] County, West Virginia, Department of Health and Human Resources' office in [REDACTED] West Virginia. She testified that the Department utilized the income calculations that were available in its computer system as a result of the June 11, 2010 SNAP review process in order to determine the Claimant's financial eligibility for WVSCA. She added that the Department did not request more current income verification from the Claimant prior to its decision to deny the WVSCA. She testified that during the previous SNAP review process the Claimant provided numerous pay stubs as verification of her household's earnings (D-3). These pay stubs (D-3) ranged in date from February 2010 through July 2010.
- 6) Ms Pendleton testified that the Department did not update the income screen for the Claimant's employment at [REDACTED] during the prior June 2010 SNAP review, and she does not know if this was an oversight by the worker. She stated that the income should have been updated at that time. The Detailed Earned Income screen (D-4) for the Claimant shows income from October 2009 through January 2010 was used to determine her countable income and shows the screen was last updated on January 26, 2010. The total monthly income from the January 26, 2010 update shows the Department considered (D-4) a total of three hundred one dollars and seventy one cents (\$301.71) as the Claimant's monthly earned income in determining her financial eligibility for the July 2010 WVSCA program.
- 7) Ms. Pendleton testified that the earned income screens for the children's father were last updated (D-4) on August 10, 2010, and show the income considered for him ranged from pay dates May 13, 2010 through June 10, 2010. The total monthly earned income determined for him (D-4) was one thousand four hundred seventy five dollars and eighty nine cents (\$1475.89). Ms. Pendleton testified that this monthly amount, along with the Claimant's monthly earned income amount of three hundred one dollars and seventy one cents (\$301.71), was considered in determining financial eligibility for the July 2010 WVSCA program. Although these amounts, when added together, total one thousand seven hundred seventy seven and sixty cents (\$1777.60), which falls under the Income Limit for WVSCA, she was unable to explain how the Department determined (D-5) that the Claimant's total monthly countable income for her household was one thousand eight hundred forty six dollars and twenty seven cents (\$1846.27), which exceeds the Income Limit of one thousand eight hundred thirty eight dollars (\$1838.00).

- 8) The Claimant contends the Department did not consider her income correctly when determining her financial eligibility for the July 2010 WVSCA program. She testified that she stopped working at [REDACTED] in June 2010.
- 9) West Virginia Income Maintenance Manual Chapter 15, I. provides that the total non-excluded income for the AG [assistance group] is compared to 100% FPL [Federal Poverty Level]. There are no deductions from the gross non-excluded income. Income sources are treated according to the WV WORKS policy in Section 10.3. Income is prorated and converted as appropriate to determine a monthly amount as it is for WV WORKS. See Section 10.24, A. If the gross non-excluded income is equal to or greater than 100% FPL, the family is ineligible for WVSCA. NOTE: If appropriate, income must be updated in RAPIDS.
- 10) West Virginia Income Maintenance Manual Section 10.24 states in pertinent part:

This Section contains specific instructions for determining countable income and the benefit level for WV WORKS.

#### A. BUDGETING METHOD

Eligibility is determined and benefits are issued on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. The following information applies to earned and unearned income.

For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the AG [assistance group]. For all cases, income is projected\*; past income is used only when it reflects the income the client reasonably expects to receive.

##### 1. Methods For Reasonably Anticipating Income

There are 2 methods for reasonably anticipating the income the client expects to receive. One method uses past income and the other method uses future income. Both methods may be used for the same AG for the same certification period because the method used varies with the circumstances of each source of income. The situations which prompt usage of one or the other method are listed below.

Use past income only when both of the following conditions exist for a source of income:

- \* Income from the source is expected to continue into the certification period; and
- \* The amount of income from the same source is expected to be more or less the same.

##### 2. Consideration of Past Income

The worker must follow the steps below for each old income source.

Step 1: Determine the amount of income received by all persons in the Income Group in the 30 calendar days prior to the application/redetermination date.

The appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of application/redetermination. The income from this 30-day period is the minimum amount of income which must be considered. ...all of the income received from that source during that time period must be considered. All pay periods during the appropriate time period must be considered and must be consecutive.

Step 2: Determine if the income from the previous 30 days is reasonably expected to continue into the new certification period. If it is expected to continue, determine if the amount is reasonably expected to be more or less the same. If so, the income source is used for the new certification period.

Step 3: Record the results of Step 2, including the amount of income, why the source is or is not being considered for the new certification period, the client's statement about continuation of the income from this source, and the time period used.

## **VIII. CONCLUSIONS OF LAW:**

- 1) Policy provides a specific procedure for determining countable income for WVSCA. The policy clearly states that in determining whether to use past income to reasonably anticipate an applicant's income, the worker must determine whether the income source is expected to continue into the certification period, and whether the income is expected to be more or less the same.
- 2) It is reasonable that the worker would determine that the income sources would continue since the Claimant reported the same income sources that she previously reported during the SNAP review process in June 2010, and that the income would remain more or less the same based on the amounts entered on the application by the Claimant.
- 3) Policy also provides, however, that once the worker determines it appropriate to use past income, it is necessary to determine the amount of income received by all persons in the Income Group in the 30 calendar days prior to the application date, by counting back thirty (30) days beginning with the calendar day prior to the date of application. All the income received during that time period must be considered, and all pay periods during the appropriate time period must be considered and must be consecutive.
- 4) Clearly, the Department failed to consider the appropriate period of time in determining the Claimant's countable earned income. The Department relied on income from a previous SNAP review process, which included income from several months prior,

rather than all income received in the prior thirty (30) day period from the date of application. Additionally, the Department was unable to show how it calculated that the Claimant's income had exceeded the Income Limit for her household size. There is a discrepancy in the amount purported by the Department to be considered during the WVSCA screening process, and the amount determined as countable income. Additionally, if the Department had requested the income verification from the prior thirty (30) day period as policy dictates, it would have determined that the Claimant no longer worked at [REDACTED] which could have also affected the outcome of the income calculations. As a result, the Department was not correct in its determination that the Claimant was not financially eligible for the WVSCA program during July 2010.

- 5) The Department failed to act in accordance with policy in denying the Claimant's School Clothing Allowance application.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **reverse** the Department's action in denying the Claimant's West Virginia School Clothing Allowance application.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 1<sup>st</sup> Day of December, 2010.**

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**Cheryl Henson  
State Hearing Officer**