



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

Bill J. Crouch  
Cabinet Secretary

BOARD OF REVIEW  
Raleigh District DHHR  
407 Neville Street  
Beckley, WV 25801

M. Katherine Lawson  
Inspector General

August 22, 2018

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.:18-BOR-2057

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 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,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

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

cc: Diana Burroughs, [REDACTED] County DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BOARD OF REVIEW

██████████,

Appellant,

v.

Action Number: 18-BOR-2057

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 21, 2018.

The matter before the Hearing Officer arises from the July 17, 2018, decision by the Respondent to deny the Appellant's application for School Clothing Allowance (SCA).

At the hearing, the Respondent appeared by Diana Burroughs, Economic Service Worker. The appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

D-1 West Virginia Income Maintenance Manual §§19.4, 3.4, 1.5.5.B, and 3.3.2

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 was automatically evaluated for SCA benefits for child [REDACTED].
- 2) The Respondent notified the Appellant on July 19, 2018, that SCA was denied as she did not have a qualifying relationship with [REDACTED].
- 3) The Appellant has no legal or blood-relationship with [REDACTED].

## APPLICABLE POLICY

West Virginia Income Maintenance Manual §3.3.2 states that eligibility for WV WORKS and SCA requires that 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 or she 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). A specified relative is any relation by blood, marriage, or adoption who is within the fifth degree of kinship to the dependent child, A specified relative is defined as follows:

- Natural or adoptive parents.
- 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

Policy stipulates that a child must be residing with a specified relative to receive SCA benefits. A specified relative is defined as a natural or adoptive parent, blood relative or legal relative within the fifth degree of kinship.

The Appellant testified that she has had physical custody of [REDACTED] since 2016. The Appellant did not contest that she is not legally or blood related to [REDACTED], but contended that she and her husband are [REDACTED] "psychological parents" which is no different from foster parents who receive clothing vouchers for children in their care. The Appellant stated she plans to adopt [REDACTED], but parental rights with [REDACTED] father have not yet been terminated and the adoptive process has not started.

Legal or physical custody of a child does not supersede policy's requirement that a child must be residing with a specified relative to be eligible for SCA benefits. The Appellant has no legal or blood relationship with [REDACTED] and is therefore not eligible to receive SCA on her behalf.

### CONCLUSIONS OF LAW

- 1) Policy requires that a child must be residing with a specified relative to be eligible for School Clothing Allowance.
- 2) A specified relative is defined as a natural or adoptive parent, blood relative or legal relative within the fifth degree of kinship.
- 3) The Appellant is not a specified relative of [REDACTED]
- 4) The Appellant is not eligible to receive School Clothing Allowance benefits for [REDACTED]

### DECISION

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

**ENTERED this 22<sup>nd</sup> day of August 2018**

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**Kristi Logan**  
**State Hearing Officer**