



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

Bill J. Crouch
Cabinet Secretary

Board of Review
416 Adams Street Suite 307
Fairmont, WV 26554
304-368-4420 ext. 79326

Jolynn Marra
Interim Inspector General

September 26, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 18-BOR-2225

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
State Hearing Officer
State Board of Review

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

cc: Debra Lauderback, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 18-BOR-2225

**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 September 25, 2018, on an appeal filed August 21, 2018.

The matter before the Hearing Officer arises from the August 10, 2018 determination by the Respondent to deny the Appellant's eligibility for the West Virginia School Clothing Allowance (WVSCA) program for the 2018 benefit year.

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

Department's Exhibits:

- D-1 DHHR Exhibit List and Case Summary, dated September 25, 2018
- D-2 Application for SCA, scanned August 8, 2018
- D-3 DHHR Eligibility Notice, dated August 10, 2018
- D-4 eRAPIDS Unearned Income Screenshots, beginning July 2018, and RSDI Information Printouts, dated December 2011 through June 2018
- D-5 West Virginia Income Maintenance Manual (WVIMM) Income Chart
- D-6 eRAPIDS Case Comments, dated April 24, 2018 through August 28, 2018

Appellant's Exhibits:

- A-1 Social Security Administration (SSA) Request for Reconsideration, dated June 4, 2018
- A-2 SSA Retirement, Survivors and Disability Insurance (RSDI) Benefit Notice, dated May 29, 2018
- A-3 SSA RSDI Benefit Withholding Notice, dated April 13, 2018
- A-4 SSA RSDI Benefit Withholding Notice, dated April 11, 2018
- A-5 Redacted SSA RSDI Benefit Notice, dated May 29, 2018
- A-6 SSA RSDI Benefit Withholding Notice, dated April 11, 2018
- A-7 SSA RSDI Benefit Withholding Notice, dated April 13, 2018

- A-8 SSA RSDI Benefit Withholding Notice, dated April 3, 2018
- A-9 SSA RSDI Benefit Notice, dated August 3, 2018
- A-10 SSA RSDI Benefit Withholding Notice, dated February 8, 2018
- A-11 SSA RSDI Benefit Withholding Notice, dated February 8, 2018
- A-12 SSA Benefit Amounts, dated November 2017 through January 2018

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 resides in a three-person household with her two minor children, [REDACTED] and [REDACTED] (Exhibits D-1, D-2, D-3, D-6)
- 2) On July 27, 2018, the Appellant applied for SCA benefits for [REDACTED] and [REDACTED] (Exhibits D-1, D-2, D-6)
- 3) On August 10, 2018, the Respondent issued a notice advising the Appellant that [REDACTED] and [REDACTED] were ineligible for SCA benefits due to income exceeding eligibility guidelines. (Exhibit D-3)
- 4) [REDACTED] and [REDACTED] receive RSDI unearned income. (Exhibits D-3, D-6, A-2 through A-12)
- 5) [REDACTED] and [REDACTED] owed a repayment to SSA for an overpayment of benefits from November 2017 through January 2018. (Exhibits A-10 through A-12)
- 6) The repayment amounts were withheld from the Appellant's household members' RSDI benefits in May 2018. (Exhibits A-3, A-7, and A-8)
- 7) In June 2018, [REDACTED] and [REDACTED] began receiving RSDI net monthly benefits in the amount of \$1,032 each. (D-4)
- 8) RSDI benefits for a given month are paid in the next month. (Exhibit A-10)
- 9) Effective July 2018, the Appellant's household received gross monthly RSDI benefits in the amount of \$2, 064. (Exhibits D-3 and D-4)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) §19.4.5 provides in part:

Chapter 4 WV WORKS income requirements apply when considering eligibility for School Clothing Allowance (SCA) benefits. No deductions or disregards are applied. For SCA, income eligibility is based only on the month of July, the program month If the gross non-excluded income is equal to or greater than 100% of the federal poverty level (FPL), the family is ineligible for WVSCA. [emphasis added]

WVIMM §4.3.1 Income Sources, Chart 1 provides in part:

When considering eligibility for WV WORKS, RSDI income is counted as unearned income. The worker must count the amount of the client's entitlement. This includes any amount deducted for Medicare, if applicable.

WVIMM §4.5.4.I.2 From Unearned Income provides in part:

All withheld unearned income is counted, unless an amount is being withheld to repay income that was previously used to determine eligibility.

WVIMM Chapter 4, Appendix A- Income Limits provides in part:

For a three-person household, 100% FPL equals \$1,732

DISCUSSION

The Appellant applied for SCA benefits for her two minor children and was denied due to income exceeding the eligibility guidelines. The Appellant argued that repayment amounts were withheld from her children's RSDI benefits at the time of application and contended that the reduced amount of income should have been considered when determining eligibility.

Policy provides that income eligibility for SCA benefits is based on the month of July only. The Respondent had to prove that the Appellant's income exceeded the income eligibility guidelines for a three-person household in July 2018.

During the hearing, the Appellant testified that she was gone from her residence during the month of June and did not receive an SSA notice of RSDI benefit amount. The Appellant testified that reinstated RSDI amounts were not received until August 2018. The Appellant's evidence demonstrated that repayment amounts were withheld from her children's RSDI benefits in May 2018 only. No evidence was entered to establish that repayment amounts were withheld from RSDI benefits in July 2018.

Policy provides that monies withheld from unearned income is counted as income when determining SCA eligibility, unless the amount is being withheld to repay income that was previously used to determine eligibility. The over issuance of the RSDI benefit period was November 2017 through January 2018. Because only income for the month of July is considered when determining SCA eligibility, income received during the RSDI over issuance period would not have been used previously to determine SCA eligibility. Therefore, regardless of whether a repayment amount was being withheld from the household's July 2018 RSDI payments, the full amount of the RSDI benefits should have been considered when determining the amount of household's income in July 2018.

The Respondent's evidence reflected that in June 2018, [REDACTED] and [REDACTED] began receiving RSDI monthly benefits in the amount of \$1,032 each and that effective in July 2018, the Appellant's household received gross monthly RSDI benefits in the amount of \$2,064. Pursuant to policy, if the gross non-excluded income is equal to or greater than 100% of the federal poverty level (FPL), the family is ineligible for SCA benefits. For a three-person household, 100% of the FPL is \$1,732. The Appellant's gross monthly income in July 2018 exceeded the SCA income eligibility limit for a three-person household.

CONCLUSIONS OF LAW

- 1) To be eligible for SCA benefits, the Appellant's July 2018 gross non-excluded household income had to be less than 100% of the FPL for a three-person household.
- 2) The Appellant's gross non-excluded household income exceeded 100% of the FPL for a three-person household.
- 3) The Respondent was correct to deny the Appellant's household eligibility for 2018 SCA benefits.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's decision to deny the Appellant's eligibility for the West Virginia School Clothing Allowance program due to income which exceeded the eligibility guidelines for the 2018 benefit year.

ENTERED this 26th day of September 2018.

Tara B. Thompson
State Hearing Officer