



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

Jolynn Marra  
Interim Inspector General

October 17, 2018

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 18-BOR-2403

Dear Mr. [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: Melissa Yost, [REDACTED] County DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BOARD OF REVIEW

██████████,

Appellant,

v.

Action Number: 18-BOR-2403

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 October 16, 2018.

The matter before the Hearing Officer arises from the July 30, 2018, decision by the Respondent to deny the Appellant's application for School Clothing Allowance benefits.

At the hearing, the Respondent appeared by Melissa Yost, Economic Service Supervisor. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

D-1 School Clothing Allowance Application dated July 22, 2018

**Appellant's Exhibits:**

A-1 Certificate of Completion from ██████████

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 applied for School Clothing Allowance (SCA) benefits for child [REDACTED] on July 22, 2018 (Exhibit D-1).
- 2) [REDACTED] is the child of the Appellant's fiancée.
- 3) At the time of the SCA application, [REDACTED] mother, [REDACTED], was a resident of a long-term recovery treatment program in [REDACTED] West Virginia.
- 4) During Ms. [REDACTED] treatment, [REDACTED] resided with the Appellant.
- 5) Ms. [REDACTED] completed the recovery treatment program on September 14, 2018 (Exhibit A-1).
- 6) The Respondent denied the Appellant's SCA application as he is not a specified relative of [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. 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.

West Virginia Income Maintenance Manual §2.2.1.B states to be eligible for Supplemental Nutrition Assistance Program (SNAP) benefits, the recipient cannot be a resident of a public or private institution except for narcotic addicts or alcoholics who reside at a facility or treatment center under the supervision of a drug or alcoholic treatment and rehabilitation program.

West Virginia Income Maintenance Manual §2.2.2.B states to be eligible for WV WORKS benefits, an individual must not be a resident of a public or private institution. A client is eligible while living in an institution under the following circumstances:

- He or she is living in an institution for the purpose of securing education or training.
- He or she is a patient in any section of an institution that has been certified as a medical facility under Medicare or Medicaid standards.

### **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.

██████████ testified that the Appellant cared for ██████████ during the time she spent in a recovery treatment program at ██████████ in ██████████ West Virginia. Ms. ██████████ testified that she received SNAP benefits while she was a resident at ██████████, but the Appellant did not receive SNAP for ██████████ Ms. ██████████ contested that the Appellant did not have a qualifying relationship with ██████████ since he was able to receive Medicaid for ██████████ during her recovery.

Under WV WORKS policy, which governs the SCA program, an individual cannot be a resident of a public or private institution and be included in the WV WORKS or SCA assistance group, unless it is for the purpose of securing education or training, or if the individual is a patient of a certified medical institution. While Ms. ██████████ was a resident of a long-term recovery treatment program, the facility where she resided is not a certified medical institution, therefore she does not meet this exemption in policy. Ms. ██████████ would not be eligible to be in the WV WORKS or SCA assistance group with ██████████

The Appellant is not legally or blood related to ██████████, and therefore is not eligible to receive SCA benefits on his behalf. Although the Appellant received Medicaid for ██████████ in Ms. ██████████ absence, policy does not require that a child reside with a specified relative as a stipulation of Medicaid eligibility.

The Respondent acted in accordance with policy in the denial of the Appellant's application for SCA benefits.

### **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 ██████████

4) The Appellant is not eligible to receive School Clothing Allowance benefits for ■■■

**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 17<sup>th</sup> day of October 2018**

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**Kristi Logan  
State Hearing Officer**