



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P. O. Box 2590  
Fairmont, WV 26555-2590

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

October 31, 2005

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 28, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny you the opportunity to apply for the School Clothing Allowance Program.

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 (WVSCA) Program is based on current policy and regulations. Some of these regulations state as follows: As long as the School Clothing Allowance application is made by July 31, 2005 and the applicant returns the requested information in the time frame specified by the worker, the WVSCA may be approved, if the family is otherwise eligible. No person is denied the right to apply for any Program administered by the Division of Family Assistance. Every person must be afforded the opportunity to apply for all Programs on the date he expresses interest. (West Virginia Income Maintenance Manual Section 15, Appendix C and 1.2 A)

Information submitted at your hearing reveals that you were denied the right to apply for WVSCA benefits.

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying you the right to complete an application for the West Virginia School Clothing Allowance (WVSCA) Program. Please see Section IX for additional information.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Reta Clark, FSS, Department of Health and Human Resources

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

\_\_\_\_\_,

**Claimant,**

v.

**Action Number: 05-BOR-6512**

**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 31, 2005 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 October 28, 2005 on a timely appeal filed August 25, 2005.

**II. PROGRAM PURPOSE:**

The program entitled West Virginia School Clothing Allowance is set up cooperatively between the Federal and State governments and 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  
\_\_\_\_\_, Claimant's son  
\_\_\_\_\_, Claimant's brother  
Rita Clark, FSS, DHHR

Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether the Department denied the Claimant his right to apply for benefits through the West Virginia School Clothing Allowance (WVSCA) Program.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Section 1.2 and 15, Appendix C

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

**Department's Exhibits:**

D-1 GroupWise E-mail transmission dated 10/28/05

D-2 WVIMM 1.2

D-3 Case comments made in Rapids cases – \_\_\_\_\_ and \_\_\_\_\_

**VII. FINDINGS OF FACT:**

- 1) The Claimant contends that on or about July 25, 2005, he was in the [REDACTED] DHHR Office in [REDACTED], WV, to complete an application for benefits through the West Virginia School Clothing Allowance Program, hereinafter WVSCA, for his son. He contends that he was told by the receptionist that he could not complete an application for the WVSCA as the deadline for accepting applications had passed.
- 2) The Department presented exhibit D-1, a GroupWise E-mail transmission October 28, 2005, wherein the [REDACTED] DHHR responded to a request that records be checked to confirm that the Claimant had "signed in" on July 25, 2005. This exhibit reveals that the Department was unable to confirm the Claimant was in the [REDACTED] DHHR Office on July 25, 2005, however, the Department acknowledged that the Claimant would not have had to "sign in" to submit an application to the WVSCA Program.
- 3) The Claimant testified that he received custody of his son through the Family Court on May 18, 2005. Exhibit D-3 confirms that the Claimant contacted the Department on May 19, 2005 and added \_\_\_\_\_, the Claimant's son, to his assistance group (AG).
- 4) Testimony received at the hearing reveals that the Claimant's brother, \_\_\_\_\_, and the Claimant's son, \_\_\_\_\_, accompanied the Claimant to the [REDACTED] DHHR Office on or about July 25, 2005. The Claimant acknowledged that he did not "sign in" or ask to see a Worker, however, all three witnesses, the Claimant, his brother and his son, presented credible testimony stating that they heard the receptionist say that the Claimant could not submit an application for WVSCA because the deadline for accepting applications had passed.

- 5) West Virginia Income Maintenance Manual, Chapter 1.2,A,1 (APPLICANT AND POTENTIAL APPLICANT'S RIGHTS) states - No person is denied the right to apply for any Program administered by the Division of Family Assistance. Every person must be afforded the opportunity to apply for all programs on the date he expresses his interest.
- 6) West Virginia Income Maintenance Manual Section 15, Appendix C, 9 states, in part:

As long as the application is made by 7/31/05 and the applicant returns the requested information in the time frame specified by the Worker, the WVSCA may be approved, if the family is otherwise eligible. All applications must be processed by 8/31/05.

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

- 1) Every person must be afforded the opportunity to apply for all programs on the date he expresses his interest.
- 2) Policy reveals that applications for the WVSCA Program were accepted until July 31, 2005.
- 3) Credible testimony reveals that the Claimant was in the [REDACTED] Department of Health and Human Resources on July 25, 2005 and that he was denied the right to apply WVSCA Program benefits.

### **IX. DECISION:**

It is the ruling of the State Hearing Officer that the Claimant was denied the right to apply for benefits provided through the WVSCA Program. This decision only addresses the issue of whether the Claimant was denied the right to apply for benefits through the WVSCA Program and does not otherwise address eligibility. The Department must therefore allow the Claimant an opportunity to complete an application for the WVSCA Program based on his circumstances as they were on July 25, 2005. The Claimant must submit a complete application for the WVSCA Program within 10-days of this decision (by November 10, 2005). If eligibility cannot be established based on this application, a new hearing request will need to be filed in accordance with Common Chapters 700 requirements.

### **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 31st Day of October, 2005.**

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**Thomas E. Arnett  
State Hearing Officer**