



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

October 31, 2005

Dear Ms. _____:

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 your application for the West Virginia School Clothing Allowance (WVSCA) Program.

In arriving at a decision, the State Hearings 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 as follows: 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 (WV Income Maintenance Manual Section 15 Appendix C, #9).

The information which was submitted at your hearing revealed that you failed to return the requested verification by the due date of August 15, 2005 and the application was denied.

It is the decision of the State Hearings Officer to uphold the action of the Department to deny your application for the West Virginia School Clothing Allowance (WVSCA) Program.

Sincerely,

Thomas M. Smith
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Kenneth Smith, Department Hearing Rep.

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

_____,

Claimant,

v.

Action Number: 05-BOR-6610

**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 28, 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 September 8, 2005.

It should be noted here that the West Virginia School Clothing Allowance (WVSCA) application was denied pending a hearing decision. It should also be noted that the hearing was originally scheduled for October 11, 2005 and the claimant did not attend and an abandonment letter was sent. The claimant called the State Hearing Officer on 10-18-05 to report that she had not received either the appointment letter or the abandonment letter as the address was incorrect and the hearing was rescheduled.

II. PROGRAM PURPOSE:

The Program entitled West Virginia School Clothing Allowance Program 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:

1. _____, Claimant.
2. _____, Claimant's sister.
3. Kenneth Smith, Department Hearing Representative.

Presiding at the Hearing was Thomas M. Smith, 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 took the correct action to deny the application for the West Virginia School Clothing Allowance (WVSCA) Program.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Sections 1.2 E, 4.2B 1, 15 App. C.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- A Copy of WV Income Maintenance Manual Section 15 App. B & C (21 pages).
- B Copy of verification request and notification letters (11 pages).
- C Copy of notice/letter summary printout (3 pages).
- D Copy of WVSCA application (2 pages).
- E Copy of letter from _____, U. S. Postal Service.

VII. FINDINGS OF FACT:

- 1) The claimant completed an application form (Exhibit #D) for the West Virginia School Clothing Allowance (WVSCA) Program on 7-25-05 and reported income from employment and child support and listed her mailing address as _____, _____ and her resident address as _____.
- 2) A letter dated 8-5-05 (Exhibit #B) requesting verification of pay stubs for the period of 6-25-05 to 7-25-05 was mailed to the address listed as the mailing address on the application form (_____, _____) and informed the claimant that the information must be provided by 8-15-05 or eligibility could not be established.

- 3) The claimant did not respond to the verification request letter by 8-15-05 and the application was denied with initial notification sent on 8-18-05 (Exhibit #B).
- 4) The claimant provided a statement to the caseworker dated 9-8-05 (Exhibit #E) which verified that a "Do Not Enter" sign was posted at the _____, [REDACTED] address and that the carrier followed postal regulations by putting the mail for that residence on hold and that the mail continued on hold until the first of September when the customer filed a change of address.
- 5) Testimony from the claimant indicated that she meant to put _____, [REDACTED] [REDACTED] as the mailing address on the application form but she was being evicted and got confused and the landlord put the do not enter sign on the door and her mail was held until she picked it up at the end of August, 2005.
- 6) The claimant contended that she did not receive the letter requesting verification due to the address mixup and would have sent in the information and that she actually sent in pay stubs when she completed a review in May or June, 2005.
- 7) Mr. Smith testified that he was not aware of any good cause or exception rule which would allow the claimant to be approved for the WVSCA.
- 8). W WV Income Maintenance Manual Section 15 Appendix C states, in part:

"A. APPLICATION PROCESS

NOTE: For the 2005 WVSCA Program, application form DFS-WVSCA-1 will be mailed to families with school-age children who received WVSCA in 2004 and who are currently included in an active Food Stamp or Medicaid AG.

1. Application Forms

An OFS-2 or DFA-WVSCA-1 is used. When an OFS-2 is used, a DFA-WVSC-1 is not required. An OFS-2 may only be required when application is made for another benefit at the same time. Applicants may also use inROADS to apply.

2. Complete Application

The application is complete, when the client signs a DFA-WVSCA-1, OFS-2 or OFS-5 which contains, at a minimum, his name and address. For WVSCA applications submitted through inROADS, the applicant must return the signed signature page by July 31, 2005 or within 10 days of the date the application was submitted on inROADS whichever is later.....

4. Interview Required

No interview is required when the DFA-WVSC-1 of inROADS is used. When the client is being interviewed for an application or redetermination for another program, form OFS-2 is used.....

8. Due Date of Additional Information

The client and the Worker agree on the date by which additional verification must be obtained.

9. Agency Time Limits

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. InROADS will accept applications from 7-1-05 thru 7-31-05.....

13. Beginning Date of Eligibility

Eligibility is determined for the month of July only.....

D. VERIFICATION

All appropriate WV WORKS verification requirements in Chapter 4 apply.....

G. COMMON ELIGIBILITY REQUIREMENTS

The WV WORKS requirements in Chapter 8 apply to WVSCA.

- 9) WV Income Maintenance Manual Section 4.2, 1 states, in part:

ITEM	PROGRAM	WHEN TO VERIFY
1. Earned Income	All Programs and coverage groups	Prior to approval”

- 10) WV Income Maintenance Manual Section 1.2 E states, in part:

“CLIENT RESPONSIBILITY

The client’s responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of the application
- Closure of the active AG
- Removal of the individual from the AG
- Repayment of benefits
- Reduction in benefits.”

VIII. CONCLUSIONS OF LAW:

- 1) WV Income Maintenance Manual Section 15, Appendix C, 9 states that an application for the WVSCA Program must be made by 7-31-05 and that the applicant must return requested information in the time frame specified by the Worker and that all

applications must be processed by 8-31-05. The local office received the application on 7-25-05 and the caseworker sent a letter on 8-5-05 to the mailing address given by the applicant requesting verification of pay stubs to be submitted by 8-15-05 or eligibility could not be established. The Department followed policy in requesting the additional information but the additional information was not provided to the Department by 8-15-05 and the application was denied on 8-18-05 with appropriate notification of denial sent to the mailing address provided by the applicant. The verification request letter and the notification of denial letters did not return to the Department and the claimant testified that she eventually received all of the letters at the end of August, 2005. The Department followed policy in taking the action to deny the application for the WVSCA as the requested verification was not received by 8-15-05 and the denial was processed on 8-18-05.

- 2) WV Income Maintenance Manual Section 4.2 B required that earned income be verified prior to approval for all programs and coverage groups with an income test. The Department was correct to require verification of pay stubs prior to taking action on the application for the WVSCA.
- 3) WV Income Maintenance Manual Section 1.2 E states that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility. The claimant did not provide a correct mailing address on the WVSCA application form as she testified that she meant to put _____, _____ as the mailing address and that her mail being sent to the _____, _____ address was held by the post office until she picked it up at the end of August, 2005. The failure of the claimant to receive the verification request letter and the notification of denial letters was not due to any incorrect action or decision of the Department and no good cause or exception can be granted.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to deny the application for the West Virginia School Clothing Allowance (WVSCA) Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 31th Day of October, 2005.

Thomas M. Smith
State Hearing Officer