



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
200 Davis Street
Princeton, WV 24740

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 18, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 11, 2006. 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 Program (WVSCA).

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 Program is based on current policy and regulations. Some of these regulations state as follows: The client and the Worker agree on the date by which additional verification must be obtained. As long as the application is made by 7/31/06 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. (West Virginia Income Maintenance Manual Section 15, Appendix C, A.8,9) Possible sources of verification of earned income are as follows: Pay stubs, written statement from employer, self employment records, Work Record Sheet ES-17 – Use the best source of verification available. When there is absolutely no other source of verification, the client's statement must be used. (West Virginia Income Maintenance Manual Section 4.2 B,1) Worker Responsibility: Assist the client in obtaining information required to establish his eligibility. When the Worker must make a collateral contact, such as an employer, the Worker must not disclose the client's status as an applicant/recipient of a Department program.(WV Income Maintenance Manual Section 1.2D)

Information submitted at your hearing revealed that the Department requested that you provide June and July pay stubs. You complied to the best of your ability and made attempts to follow up. The Department did not meet its obligation to assist you in obtaining necessary verification.

It is the decision of the State Hearing Officer to **reverse** the action of the Department to deny your School Clothing Allowance application.

Sincerely,

Cheryl McKinney
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Debby Blevins, DHHR
Sylvia Proffitt, Income Maintenance Worker, DHHR

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

_____,
Claimant,

v.

Action Number: 06-BOR-2681

**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 September 8, 2006, 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 September 8, 2006, on a timely appeal filed August 11, 2006.

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
Sylvia Proffitt, Income Maintenance Worker, Raleigh DHHR

Presiding at the hearing was Cheryl McKinney, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department took the correct action in denying the Claimant's West Virginia School Clothing Allowance application.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section 15, Appendix C
West Virginia Income Maintenance Manual Section 4.2, B.1
West Virginia Income Maintenance Manual Section 1.2 D

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department Summary of Events
- D-2 Copy of IG-BR-40
- D-3 Copy of WV School Clothing Allowance application dated 6-28-06
- D-4 Copy of Verification Checklist dated 7-12-06
- D-5 Copy of letter received from claimant's employer dated 7-19-06
- D-6 Copy of CNHS letter history dated 7-19-06 for denial of SCA
- D-7 Copy of SCA denial letter dated 8-14-06
- D-8 Copy of Income Maintenance Manual Chapter 4.2-B,1
- D-9 Copy of Income Maintenance Manual Chapter 1.25- H, I
- D-10 Copy of case comments beginning 7-12-06
- D-11 Copy of pay stubs received by fax dated 8-8-06

Claimant's Exhibits:

- C-1 Fax dated 7-25-06 sent to claimant's employer requesting verification of earnings
- C-2 Letter from claimant's employer dated 7-25-06 regarding earnings
- C-3 Copy of July, 2006 pay stubs faxed to DHHR 8-8-06

VII. FINDINGS OF FACT:

- 1) Claimant submitted a timely application for West Virginia School Clothing allowance on 6-28-06. The application was considered received 7-1-06. (D-3)
- 2) The Income Maintenance Worker began processing the application on 7-12-06 and pended the application. The Worker sent a notice to Claimant on 7-12-06 requesting she verify all of June and July 2006 pay stubs, and current value of savings account. The letter indicated that if the verification was not made available to the office by 7-22-06, her eligibility for benefits and /or deductions could not be established or continued.
- 3) West Virginia Income Maintenance Manual Chapter 4.2, B.,1 states in part: Possible sources of verification of earned income are pay stubs, written statements from employer, self employment records, Work Record Sheet ES-17. Use the best source of verification available. When there is absolutely no other source of verification, the client's statement must be used. (D-8)
- 4) West Virginia Income Maintenance Manual Chapter 1.25 H states: the client and the Worker agree on the date by which additional verification must be obtained. (D-9)
- 5) West Virginia Income Maintenance Manual Chapter 1.2 D states in part: Worker Responsibility: Assist the client in obtaining information required to establish his eligibility. When the Worker must make a collateral contact, such as an employer, the Worker must not disclose the client's status as an applicant/recipient of a Department program.
- 6) Testimony and evidence from both DHHR and Claimant indicate Claimant sent in a statement from her employer on 7-18-06. (D-5, D-10) The statement verified she began working for the company June 27, 2005, and she works an average of 25 hours per week and is paid \$8.00 per hour. The statement was signed by her employer. The employer included the following statement in the letter "If you have any questions please feel free to contact me." The statement listed two phone numbers and a fax number as contact information. Claimant also verified her savings account balance. It should be noted that it would not have been possible for claimant to return her June and July 2006 pay stubs by the deadline of 7-22-06, as she did not receive her last pay stub for this period until 8-4-06.
- 4) The Caseworker denied the application for WVSCA on 7-19-06, and sent a denial notice on this date. (D-6) Claimant testified she did receive this letter. Testimony from the Department indicated the reason for this denial was "As worker had asked for her June and July pay stubs on the verification checklist, and this was not a new job that the client was starting prompting the need to anticipate income from an employer statement, the worker denied the school Clothing application for not verifying the information requested. The Claimant testified she misplaced her 6-06 pay stubs.
- 5) Evidence presented shows Claimant attempted to contact DHHR on 7-24-06 and left a voice mail. Case comments (D-10) dated 7-24-06 indicate a Caseworker returned the call and left claimant a voice message that said "her case was pended for 6-06 and 7-06 pay stubs and that it was not acceptable to send verification of hours and pay rate and

that since she had been employed longer than 30 days she needs to send the actual pay stubs.”

- 6) Case Comments (D-10) dated 7-28-06 recorded by another Caseworker state “Client called to check on SCA application. Not processed at this time.”
- 7) Case Comments (D-10) dated 8-2-06 recorded by Caseworker state [REDACTED] called to check the status of her SCA. It appears it has not been approved yet. No action taken to case.”
- 8) Case Comments (D-10) dated 8-3-06 and 8-7-06 record conversations Claimant had with Customer Service Representatives. The Customer Service Representatives informed Claimant that the Department needed her actual pay stubs instead of employer statement.
- 9) Evidence and testimony provided shows Claimant faxed her actual July, 2006 pay stubs to DHHR on 8-8-06, and DHHR recorded in Case Comments the SCA would remain denied as the program ended 7-31-06.

VIII. CONCLUSIONS OF LAW:

- 1) WV Income Maintenance Manual Section 15, Appendix C, A. 8 and 9 requires that the client and the Worker agree on the date by which additional verification must be obtained. As long as the application is made by 7/31/06 and the applicant returns the requested information in the time specified by the Worker, the WVSCA may be approved, if the family is otherwise eligible. The claimant submitted a timely application on 6-28-06.
- 2) WV Income Maintenance Manual Section 4.2 B., 1 requires that earned income be verified for all programs, and lists possible ways of verifying income as follows: Pay stubs, written statement from employer, self employment records, Work Record Sheet ES-17 – Use the best source of verification available. The Worker sent the claimant a verification checklist on 7-12-06 requesting copies of actual pay stubs from June and July 2006. She gave the customer until 7-22-06 to provide these documents. The Department acted correctly in pending the application for necessary earnings verification, but was unreasonable in the requirement that the June and July 2006 pay stubs be submitted by 7-22-06. It would not have been possible for the claimant to provide the actual pay stubs for the month of July 2006 until sometime in August, 2006. The claimant provided a written employer statement verifying her start date, rate of pay, and her average monthly hours on 7-18-06. The employer statement provided contact information and suggested the worker could contact them for additional information if needed.
- 3) WV Income Maintenance Manual Section 1.2, D. requires that the Worker has the responsibility to assist the client in obtaining information required to establish his eligibility. When the Worker must make a collateral contact, such as an employer, the

Worker must not disclose the client's status as an applicant/recipient of a Department program. No evidence was presented to indicate the Worker made any attempt to contact the employer after receiving the written statement to obtain the needed earnings verification. The Worker failed to assist the claimant in obtaining needed verification. Evidence presented clearly showed the claimant made several attempts to resolve the issue, and was given conflicting information

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the Department's action in denying the Claimant's West Virginia School Clothing Allowance application.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th Day of September, 2006.

**Cheryl McKinney
State Hearing Officer**