



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 1736
Romney, WV 26753

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

October 18, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 20, 2007. Your hearing request was based on the Department of Health and Human Resources' denial of West Virginia School Clothing Allowance due to program ended.

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: Policy §1.2 states, "When it is not feasible for the applicant to be interviewed on the date he expresses his interest, he must be allowed to complete the process at a later date."

Information submitted at the hearing revealed that you expressed an interest in applying for School Clothing on or before the program end date and was advised that you could not be seen.

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

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Pyles, Economic Supervisor, DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-1895

**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 20, 2007 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 20, 2007 on a timely appeal filed August 10, 2007.

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 Husband

Dan Pyles, Income Maintenance Supervisor, DHHR

Presiding at the hearing was, Sharon K. Yoho 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 eligibility for the Claimant's School Clothing Allowance vouchers due to program end date.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter §1.2 and 15, Appendix C, 9.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Application for WV Clothing Allowance, dated August 2, 2007
- D-2 Notice of denial, dated August 7, 2007
- D-3 WV Income Maintenance Policy 15, Appendix C,9
- D-4 Case Comments June 13, 2007 thru September 17, 2007

VII. FINDINGS OF FACT:

- 1) The Claimant's household consists of two school age children, herself and her husband. The household was active recipients of the Food Stamp Program and due for a review.
- 2) Case Comments (Exhibit D-3) shows the Claimant called the ██████████ County DHHR office on July 23, 2007 regarding her FS closure letter due to a missed review. She was advised that she needed to complete her review.
- 3) The above case comments did not note any conversation regarding the School Clothing program. The Claimant testified that she called the office and left a message for her worker on Friday, July 27, 2007. She advised that she needed to do her Food Stamp review and she states she is pretty sure that she also mentioned School Clothing. She testified that the worker returned a call on Tuesday July 31, 2007 at either 11:00 or 1:00. and advised her that there were no workers available that afternoon to see her and that the next day was a Wednesday, and that only emergencies were seen on Wednesdays. The Claimant stated that if she did not mention School Clothing on the 27th, that she was sure she did mention it to her worker on the 31st. Case comments do not include any notations for July 27 or July 31.
- 4) The Department did not object to the testimony of the Claimant recounting conversations she states she had with the DHHR worker on July 31, 2007 and the message she states she left for the worker on July 27, 2007. She did not indicate that she had asked any DHHR employee this year about what the time limits were for SCA applications. The claimant believed that the program was to start in August because someone had told her this last year.

- 5) The claimant came into the DHHR office on Thursday August 2, 2007 for her Food Stamp review and brought with her, a School Clothing Application, which she had completed. Her School Clothing Application was denied because the program ending on July 31, 2007. The Department issued a denial notice dated August 7, 2007 stating the reason for denial was "School Clothing Allowance season has ended." The program ended on July 31, 2007 for this school year.
- 6) West Virginia Income Maintenance Chapter §15, Appendix C, 9 states:

As long as the application is made by the last day of July and the applicant returns the requested information in the time frame specified by the Worker, the WVSCA is approved, if the family is otherwise eligible.
- 7) West Virginia Income Maintenance Chapter §1.2 states:

Right To Apply
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.
When it is not feasible for the applicant to be interviewed on the date he expresses his interest, he must be allowed to complete the process at a later date.

VIII. CONCLUSIONS OF LAW:

- 1) Evidence and testimony support that this claimant did express an interest in applying for School Clothing benefits on July 31, 2007, which was the last day for which to apply. She was advised on that date that she could not be seen on that day and that she could not come on the following day because it was a Wednesday and only emergencies were seen on that day. It is true that Wednesdays are set aside by the Department for processing purposes and therefore, the Claimant's testimony is viewed by this Hearing Officer as credible testimony. The Department did not enter any objections to this testimony nor did they provide the caseworker for cross examine purposes.
- 2) Policy §1.2 provides that every person must be afforded the opportunity to apply on the date he expresses an interest and that when it is not feasible, he must be allowed to complete the process at a later date. This policy indicates that when the Claimant expresses an interest, the process is begun. This Claimant's SCA process therefore, was begun on July 31, 2007 and should have been completed on August 2, 2007 as an application date of July 31, 2007.
- 3) If the Claimant was otherwise eligible, the School Clothing application should have been approved.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th Day of October, 2007.

**Sharon K. Yoho
State Hearing Officer**