



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

September 20, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 18, 2012. Your hearing request was based on the Department of Health and Human Resources' denial of automatic eligibility for West Virginia School Clothing Allowance benefits and failure to provide you with an application once automatic eligibility was not established.

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 that an application for West Virginia School Clothing Allowance, form DFA-WVSC-1, will be mailed to families with school-age children who received WVSCA in the previous program year and who are included in an active SNAP or Medicaid Assistance Group (AG) in June of the current program year. Active SNAP AGs who have indicated that they want to be evaluated for automatic issuance of SCA should be determined eligible by deadline for the current program year, will not be mailed WVSCA application forms and will be included in the automatic issuance unless there is a child in the case who is less than age 5 or older than age 15. If there is a child of this age in the case, they will be skipped in the automatic issuance and sent a DFA-WVSC-1 during the regular mass mailing. SNAP AGs confirmed on or after the automatic issuance question deadline for the current program year must complete a DFA-WVSC-1, DFA-2, or use inROADS to apply for WVSCA. (West Virginia Income Maintenance Manual Chapter 15, Appendix C)

Information submitted at your hearing reveals that you chose to be evaluated for automatic issuance of WVSCA program benefits, you had received WVSCA the previous year, and your children were active in a SNAP or Medicaid AG in June of the current program year. While your two children appear to be otherwise eligible WVSCA for benefits, your case was not automatically approved due to having a child over the age of 15 in your AG. However, because you were not mailed an application (DFA-WVSC-1) during the regular mass mailing, you were not afforded the same opportunity, as similarly situated individuals, to apply for WVSCA benefits.

It is the decision of the State Hearing Officer to **reverse** and **remand** this matter to the Department. The Claimant has 30 days from the date of this decision to complete an application for WVSCA – as required by all AGs who have a child over the age of 15 years – and the Department will complete an eligibility determination based on the Claimant's circumstances in July 2012. Should the eligibility determination be unfavorable, the Claimant may file an appeal anew.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Mark Patee, ESS, WVDHHR

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

Claimant,

v.

Action Number: 12-BOR-1896

**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 hearing 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 18, 2012, on a timely appeal filed August 2, 2012.

II. PROGRAM PURPOSE:

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 percent of the Federal Poverty Level.

II. PARTICIPANTS:

-----, Claimant
Mark Paree, ESS, WVDHHR

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

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in denying the Claimant's request for West Virginia School Clothing Allowance (WVSCA) program benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 15, Appendix C

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 2012 School Clothing Allowance Program Memorandum from Dan Hartwell, Program Manager, dated June 22, 2012

VII. FINDINGS OF FACT:

- 1) The Claimant telephoned the Department of Health and Human Resources (Department) on August 1, 2012, to inquire about eligibility for West Virginia School Clothing Allowance (WVSCA) program benefits for his two children, ages 14 and 19 years old. The Claimant was advised, pursuant to Exhibit D-1, that the WVSCA program closed effective July 31, 2012, and as a result, he would be unable to apply and establish eligibility for his children.
- 2) The Claimant filed a written appeal with the Department on August 2, 2012, as he indicated that his children received WVSCA benefits in 2011, and was advised that eligibility would be automatically evaluated when he completed his last review for benefits. The Claimant purported that he did not see the press release noted in Exhibit D-1 and he was not mailed any information to indicate that he would need to apply for WVSCA program benefits.
- 3) The Department's representative, Mark Patee, an Economic Services Supervisor (ESS), presented testimony to indicate that the Claimant's case was "flagged" to be reviewed automatically for WVSCA benefits; however, the Department's RAPIDS computer system programming prevents an automatic eligibility review for WVSCA when a case includes children younger than 5 years old, or older than 15 years old. Mr. Patee speculated that this measure is in place so to ensure WVSCA benefits are not automatically awarded to children who may no longer be attending school. Mr. Patee indicated that because the Claimant has a 19-year-old child in the Assistance Group (AG), the automatic eligibility review was not completed. Mr. Patee noted that the Claimant should have been sent an application for WVSCA benefits, but a review of the documents sent to the Claimant via RAPIDS fails to confirm an application was mailed.

- 4) Testimony proffered by the Claimant indicates that his 19-year-old child has special needs and continues to attend public school. The Department stipulated that the Claimant appears to have been otherwise eligible to receive WVSCA benefits, but because the program was closed effective July 31, 2012, the Claimant was advised that eligibility could not be established.
- 5) West Virginia Income Maintenance Manual Chapter 15.4, Appendix C, states as follows:

An Application for West Virginia School Clothing Allowance, form DFA-WVSC-1, will be mailed to families with school-age children who received WVSCA in the previous program year and who are included in an active SNAP or Medicaid AG in June of the current program year. Active SNAP AGs who have indicated “Yes” to the question “Does your household choose to be evaluated for automatic issuance of SCA should you be determined eligible?” by deadline for the current program year will not be mailed WVSCA application forms and will be included in the automatic issuance unless there is a child in the case who is less than 5 or older than 15. If there is a child of this age in the case, they will be skipped in the automatic issuance and sent a DFA-WVSC-1 during the regular mass mailing. SNAP AGs confirmed on or after the automatic issuance question deadline for the current program year must complete a DFA-WVSC-1, DFA-2, or use inROADS to apply for WVSCA.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that an application for West Virginia School Clothing Allowance, form DFA-WVSC-1, will be mailed to families with school-age children who received WVSCA in the previous program year and who are included in an active SNAP or Medicaid AG in June of the current program year. Active SNAP AGs who have indicated that they want to be evaluated for automatic issuance of SCA should be determined eligible by deadline for the current program year, will not be mailed WVSCA application forms, and will be included in the automatic issuance unless there is a child in the case who is less than age 5 or older than age 15. If there is a child of this age in the case, they will be skipped in the automatic issuance and sent a DFA-WVSC-1 during the regular mass mailing. SNAP AGs confirmed on or after the automatic issuance question deadline for the current program year must complete a DFA-WVSC-1, DFA-2, or use inROADS to apply for WVSCA.
- 2) Evidence submitted in this case reveals that the Claimant received WVSCA benefits in the previous program year, that he had chosen to be reviewed for an automatic eligibility determination and that he was receiving SNAP and/or Medicaid in June of the current program year. Evidence further reveals that while the Claimant was not reviewed for automatic eligibility due to having a 19-year-old child in the AG, he was not provided an application (DFA-WVSC-1) and notified that he would need to apply for WVSCA benefits pursuant to policy.

- 3) The Claimant was not afforded the same opportunity, as similarly situated individuals, to apply for WVSCA benefits. While the Department presented testimony to indicate the AG appeared to be otherwise eligible, because the AG includes a child over the age of 15, an application must be completed pursuant to regulatory requirements. As a result, the Claimant must complete an application for WVSCA within 30 days of this decision, and the Department's eligibility determination shall be based on the Claimant's circumstances in July 2012.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** and **remand** this matter to the Department. The Claimant has 30 days from the date of this decision to complete an application – as required by all AGs who have a child over the age of 15 years – and the Department will complete an eligibility determination based on the Claimant's circumstances in July 2012. Should the eligibility determination be unfavorable, the Claimant may file an appeal anew.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of September 2012.

**Thomas E. Arnett
State Hearing Officer**