



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

September 27, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 25, 2012. Your hearing request was based on your belief that the Department of Health and Human Resources denied you the right to apply for West Virginia School Clothing Allowance (WVSCA) benefits during July 2012.

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 it is the Worker's responsibility to explain and make available all of the Department's programs for which the applicant could qualify. Unless the applicant specifically states he is not interested in being considered for WV WORKS, including DCA; SNAP benefits; Medicaid; or SCA, during the appropriate time period, the Worker must evaluate potential eligibility for each of these. Mail in applications for any program must be evaluated for all other programs based on the available information. All those who have applied for benefits, or who inquire about the requirements for receiving benefits, must have the requested information provided. This includes a general explanation of the eligibility requirements and answers to specific questions. (West Virginia Income Maintenance Manual, Chapter 1.2, A, 2 and 3) An electronically signed inROADS [online] application submitted timely (during the month of July) is considered a complete application for WVSCA. (West Virginia Income Maintenance Manual, Chapter 15, Appendix C)

Information submitted at your hearing reveals that during the month of July 2012 (the only month in which WVSCA applications were accepted for 2012), you submitted an electronically signed InROADS (online form) review application and a paper review application to the Department for a mandatory review of your SNAP and Medicaid eligibility as well as to apply for the WVSCA program. You noted on the applications that you wished to be considered for the SCA program.

It is the decision of the State Hearing Officer to **reverse** and **remand** this matter to the Department. The Department will immediately provide the Claimant with a valid application form for the WVSCA program. The Claimant will have 30 days in which to complete the application and provide the Department with all necessary verifications. The Department will process the application, and the Claimant will have appeal rights should the Department's decision be unfavorable.

Sincerely,

Cheryl Henson
Deputy Director
State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Tera Pendleton, Kanawha DHHR

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

IN RE: -----,

Claimant,

v.

Action Number: 12-BOR-1949

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF DEPUTY DIRECTOR

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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This hearing was convened on September 25, 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
Tera Pendleton, Department representative
Amy Boggs, Department witness

Presiding at the hearing was Cheryl Henson, Deputy Director for the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department denied the Claimant the right to apply for the WVSCA program during July 2012.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 1.2, A, 2 and 3, and Chapter 15, Appendix C

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Individual Demographics screen from Department's computer system
- D-2 Notice/Letter History Summary from Department's computer system
- D-3 Excerpts from Income Maintenance Manual, Chapter 15, Appendix C
- D-4 Inroads application dated July 7, 2012
- D-5 Paper application completed July 24, 2012
- D-6 Blank DFA-2 form

VII. FINDINGS OF FACT:

- 1) The Claimant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits and Medicaid when on June, 19, 2012, the Department sent her a notice (D-5) informing her that she must complete and return a review form for both programs, and that a telephone interview appointment was scheduled for her on July 24, 2012, at 2:00 PM to complete the interview process.
- 2) On July 7, 2012, the Claimant completed and submitted to the Department an InROADS (online) computer review form (D-4) for her household. The evidence (D-4) shows the household electronically signed the application on July 7, 2012, and the form noted that a phone interview date was scheduled for the Claimant on July 24, 2012, at 2:00 PM. The Claimant indicated on the online review form that she also wanted to be evaluated for the School Clothing Allowance program (D-4, third page). The question on the form (D-4, third page) reads: Does your household choose to be evaluated for automatic issuance of SCA should you be determined eligible? The Claimant indicated "Yes." Ms. Pendleton explained that in order to be automatically considered for SCA, the Claimant would have needed to submit the information before a deadline occurring in June 2012.
- 3) The Claimant testified that she waited for the Department to contact her at 2:00 PM on July 24, 2012; but added that no one from the Department contacted her. She stated that she became concerned and contacted the Customer Service Center for assistance. She also stated that she made several phone calls to the local office to determine if they had received her InROADS

application, but was told that the application had not been received. She stated that she also went to the local office on July 24, 2012, after being told that the online application was not received, and completed another application paper review form (D-5) at that time. She stated that she was told by the front receptionist desk that she could not see a worker that day because it was a Wednesday and the workers did not see customers on that day. She stated that she noted on the application review form (D-5) that she also wanted to be considered for the School Clothing Allowance program. Under the signature section of the form (D-5) the Claimant wrote “also for school clothing vouchers.” She stated that she asked the receptionist if this is all she needed to do to also be considered for the clothing allowance program, and added that the receptionist told her she did not need to do anything else.

- 4) The Department representative, Tera Pendleton, stated that the office was granted special consideration from the Food and Nutrition Services (FNS) during July and August 2012 which relieved the Department from conducting telephone interviews during that period. She confirmed that the Department did not notify the Claimant of this change.
- 5) Ms. Pendleton stated that the Department does not show that the Claimant applied for the School Clothing Allowance program during the month of July 2012, and that as such, the Claimant’s household is not eligible for the program. She stated that the Claimant would have needed to fill out a specific form called the DFA-WVSC-1 in order to be considered for the program. She added that the Claimant did not fill out this application. She also confirmed that the Claimant was not eligible to be automatically considered for the program based on the age of her children; the Claimant did not purport to be eligible for this automatic consideration.
- 6) West Virginia Income Maintenance Manual Chapter 15, Appendix C, states as follows:

WVSCA APPLICATION PROCESS

Application Forms

The Application/Redetermination form, DFA-2, or the Application for West Virginia School Clothing Allowance, DFA-WVSC-1, is used. A DFA-2 may only be required when application is made for another benefit at the same time. Applicants may also use inROADS to apply over the internet...

Complete Application

c. inROADS Applications With Electronic Signature

When the inROADS application is submitted with an electronic signature, the application is complete.

- 7) West Virginia Income Maintenance Manual, Chapter 1.2, A, 2 and 3, states in pertinent part:

Right to Information

All those who have applied for benefits, or who inquire about the requirements for receiving benefits, must have the requested information provided. This includes a general explanation of the eligibility requirements and answers to specific questions. If the worker does not know the answer to the specific question, he may request that his Supervisor submit the question to the DFA Economic Services or Family Support Policy Unit. However, applicants and potential applicants must not be referred to the DFA Policy Unit for a direct response.

Right to Consideration For [sic] All Programs

It is the Worker's responsibility to explain and make available all of the Department's programs for which the applicant could qualify. Certain programs, such as CDCS, I/DD, TBI and HCB Waiver, require a medical and/or other determination by a community agency or government division other than DFA and a financial determination by an Income Maintenance Worker. When an applicant's medical eligibility for, or enrollment in, these programs is pending, he must not be refused the right to apply, but must be evaluated for any or all DFA programs. Unless the applicant specifically states he is not interested in being considered for WV WORKS, including DCA; SNAP benefits; Medicaid; or SCA, during the appropriate time period, the Worker must evaluate potential eligibility for each of these. The evaluation of eligibility is accomplished in RAPIDS [Department's computer system].

Mail-in applications for any program must be evaluated for all other programs based on the available information.

VIII. CONCLUSIONS OF LAW:

- 1) Policy specifies that the Department has an obligation to provide requested eligibility information to applicants. This includes a general explanation of the eligibility requirements and answers to specific questions. The evidence shows the Department did not provide accurate answers to the Claimant's questions when she asked specific questions about whether she was submitting all required forms and documentation for consideration of eligibility for the WVSCA program.
- 2) Policy specifies that it is the Department's responsibility to explain and make available all of the Department's programs for which the applicant could apply, including SCA. Policy is clear in that unless the applicant specifically states he or she is not interested in being considered for SCA during the appropriate time period of July [the only month yearly in which SCA applications are accepted], the Department must evaluate potential eligibility for the program in the computer system.
- 3) Evidence submitted in this case reveals that the Claimant completed two (2) review applications during July 2012; one submitted on July 7, 2012, via inROADS, and the other submitted in person on July 24, 2012. The Department received these applications during July; however, the Department did not evaluate the Claimant's potential eligibility for WVSCA as

required. The evidence is clear in the Claimant made numerous attempts during July 2012 to make the Department aware that she wished to be considered for the program.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the Decision of the Department in not determining the Claimant's potential eligibility for the WVSCA program during July 2012. The case is being **remanded** to the Department. The Department will immediately provide the Claimant with the proper application form for the WVSCA program. The Claimant will have 30 days in which to complete the application and provide the Department with all required documentation. The Department will determine eligibility for WVSCA based on the provided information and the Claimant will have appeal rights should the Department's decision on the application be unfavorable.

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.

**Cheryl Henson
Deputy Director,
Board of Review**