



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Earl Ray Tomblin  
Governor

Rocco S. Fucillo  
Cabinet Secretary

October 4, 2012

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Dear Mr. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 2, 2012. Your hearing request was based on the Department of Health and Human Resources' failure to evaluate you for West Virginia School Clothing Allowance (WVSCA) benefits.

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 that if a WVSCA 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. Applicants must be afforded an opportunity to apply for all programs on the date they express an interest. (West Virginia Income Maintenance Manual Chapters 1.2.A.1 and 15, Appendix C)

Information provided at your hearing reveals that you expressed an interest in being evaluated for the WVSCA Program within the specified program time frames, but were not given consideration for the program.

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 benefits 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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review  
Angela Jennings, WVDHHR

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

**IN RE:** ----,

**Claimant,**

v.

**ACTION NO.: 12-BOR-2030**

**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 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 2, 2012, on a timely appeal filed August 17, 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

---- ----, Claimant's wife

Kelli Roby, Economic Service Worker, WVDHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department properly evaluated the Claimant for West Virginia School Clothing Allowance (WVSCA) benefits.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapters 1.2.A.1, 1.2.A.3 and 15, Appendix C

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Supplemental Nutrition Assistance Program (SNAP) and Children's Medicaid Review forms from Department's inROADS (internet) application system
- D-2 West Virginia Income Maintenance Manual Chapter 15, Appendix C

**VII. FINDINGS OF FACT:**

- 1) The Claimant's wife, ---- ----, completed reviews for the Supplemental Nutrition Assistance Program (SNAP) and children's Medicaid Program on July 5, 2012, via the Department's inROADS (internet) application system. At that time, the Claimant's wife checked "Yes" to the question, "Does your household choose to be evaluated for automatic issuance of SCA should you be determined eligible?" This information is contained in Exhibit D-1.

Kelli Roby, Economic Service Worker with the Department, testified that by checking "Yes" to this question, the Claimant's wife was indicating the household wished to be automatically considered for West Virginia School Clothing Allowance (WVSCA) benefits in 2013, and explained that the Claimant would have needed to complete an application for the program to be evaluated for the current year.

- 2) ---- ---- testified that she completed the review forms on July 5, 2012, and checked the box to be evaluated for the WVSCA Program for her three children. She stated that she attempted to telephone the office several times in July 2012 to ensure that the WVSCA benefits were being evaluated and to determine whether she had provided all information required to apply. The Claimant testified that he and his wife also attempted to call [REDACTED] to ensure the request for WVSCA was being evaluated, but said he was only informed that there were numerous WVSCA applications under review at that time. Mrs. ---- testified that she came into the [REDACTED] DHHR Office after she failed to receive WVSCA benefits in August and learned that she had not been evaluated for the WVSCA Program. The couple contended that the inROADS question concerning WVSCA evaluation is misleading, and that there is a lack of communication between the Department and the public.

- 3) West Virginia Income Maintenance Manual Chapter 15, Appendix C (D-2), 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.

- 4) West Virginia Income Maintenance Manual Chapter 15, Appendix C (D-2) states that as long as the WVSCA 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.
- 5) West Virginia Income Maintenance Manual Chapter 1.2.A.1 states, in pertinent part:

#### APPLICANT AND POTENTIAL APPLICANT’S RIGHTS

In addition to addressing all questions and concerns the client may have, the Worker must explain the benefits of each Program and inform the client of his right to apply for any or all of them.

##### 1. Right To Apply

No person is denied the right to apply for any Program administered by the Division of Family Assistance (DFA). Every person must be afforded the opportunity to apply for any Program administered by the Division of Family Assistance (DFA). 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, if an interview is required or requested, on the date he expresses his interest, he must be allowed to complete the process at a later date. An appointment may be scheduled for his return, or the client may return at his convenience, depending upon the procedure established by the CSM. The same procedure must be used for all applicants within the county. If a follow-up appointment is scheduled and the applicant appears for the interview, he must be seen on that day and not required to return again to complete the application process.

- 6) West Virginia Income Maintenance Manual Chapter 1.2.A.3 states:

**Right To Consideration For 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.

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

When an Evaluated AG passed and is confirmed, a client notice is issued from RAPIDS to inform the applicant that he may be eligible for a benefit for which he did not apply and that he must contact his local office for information or to apply.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy states that as long as a WVSCA 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. No person is denied the right to apply for any program administered by the Division of Family Assistance (DFA), and every person must be afforded the opportunity to apply for all programs on the date he expresses interest. It is the Department's responsibility to explain and make available all of the Department's programs for which the applicant could qualify.
- 2) The Claimant's wife completed on-line case reviews on July 5, 2012, and indicated that she wished to be evaluated for WVSCA benefits at that time. While the Department contended that the question regarding the WVSCA application pertains to consideration for benefits in 2013, the question – as written – contains no specific language to suggest it only applies to the next calendar year. Therefore, the Claimant and his wife reasonably concluded that they were requesting WVSCA evaluation for the current year. There is no evidence to demonstrate that the Claimant was evaluated for the program at the time the reviews were processed, or made aware that he needed to apply in another manner. The Claimant and his wife provided credible testimony to indicate that they made several attempts to contact WVDHHR about the status of their application, but were never provided information to suggest further action was required on

their part. As the Claimant expressed interest in applying for the program on July 5, 2012 – and was not evaluated for the program when his reviews were processed – the Claimant was denied the right to apply for WVSCA benefits.

**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 for WVSCA benefits 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 October 2012.**

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**Pamela L. Hinzman**  
**State Hearing Officer**