



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

October 19, 2012

Dear Ms. ----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 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 received WVSCA the previous year, and your child was active in a SNAP or Medicaid AG in June of the current program year. Because your child appears to have been otherwise eligible for WVSCA automatic issuance, and 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. As a result, this matter is remanded to the Department to complete a WVSCA eligibility determination.

It is the decision of the State Hearing Officer to **reverse** and **remand** this matter to the Department. 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
Janet Alexander, ESS, WVDHHR

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

Claimant,

v.

Action Number: 12-BOR-2117

**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 October 18, 2012, on a timely appeal filed August 24, 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
Janet Alexander, ESW, 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 Notice of Decision dated 8/16/12

D-2 Case Comments from RAPIDS dated 8/15/12

D-3 West Virginia Income Maintenance Manual §15, Appendix C

VII. FINDINGS OF FACT:

- 1) On August 16, 2012, the Claimant was notified (D-1) that her application for West Virginia School Clothing Allowance (WVSCA) benefits was denied. The notice indicates that the Claimant's July 31, 2012 application for School Clothing Allowance was denied because the School Clothing Allowance season ended.
- 2) The Claimant filed an appeal with the Department of Health and Human Resources (Department) on August 24, 2012, because she was not reviewed for automatic eligibility. The Claimant testified that she received WVSCA benefits in 2011 and that she was not required to complete any additional applications. The Claimant testified that she had someone get an application for WVSCA at the Department for her, and that she signed and mailed the application on or about July 27, 2012, when she had not heard anything regarding her eligibility.
- 3) The Department's representative, Janet Alexander, an Economic Services Worker (ESW), acknowledged an error on the Notice of Decision (D-1), and indicated that the Claimant's WVSCA application was received by the Department on August 13, 2012 (see Exhibit D-2). However, Ms. Alexander proffered testimony to indicate that the Claimant's case was "flagged" to be reviewed automatically for WVSCA benefits when she completed a SNAP review on May 31, 2012. Ms. Alexander indicated that she could not explain why the Claimant, who appears to have been otherwise eligible to receive WVSCA benefits in July 2012, was not automatically reviewed for eligibility.

- 4) 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 [Assistance Group] 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, the AG 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, had chosen to be reviewed for an automatic eligibility determination, and was receiving SNAP and/or Medicaid in June of the current program year. Evidence further reveals that the Claimant was neither reviewed for automatic eligibility, nor provided an application (DFA-WVSC-1) and notified that she would need to apply for WVSCA benefits pursuant to policy.
- 3) Evidence demonstrates that the Claimant was not afforded the same opportunity, as similarly situated individuals, to apply and/or be evaluated for WVSCA benefits. While the Department presented testimony to indicate the AG appeared to be otherwise eligible, this matter is remanded to the Department to complete an eligibility determination for WVSCA benefits 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 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.

**Thomas E. Arnett
State Hearing Officer**