



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
203 East Third Avenue  
Williamson, WV 25661**

**Bill J. Crouch  
Cabinet Secretary**

**Jolynn Marra  
Interim Inspector General**

September 28, 2018



RE: [REDACTED] v. WV DHHR  
ACTION NO.:18-BOR-2269

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Janee Scott, Economic Service Supervisor

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BOARD OF REVIEW

[REDACTED],

Appellant,

v.

Action Number: 18-BOR-2269

WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for [REDACTED]. 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 fair hearing was convened on September 25, 2018.

The matter before the Hearing Officer arises from the August 8, 2018 decision by the Respondent to deny the Appellant's application for the School Clothing Allowance (SCA) Program.

At the hearing, the Respondent appeared by Janee Scott, Economic Service Supervisor. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Form DFA-WVSC-1, Application for WV School Clothing Allowance, signed and dated by the Appellant on July 31, 2018
- D-3 Case Comments from Appellant's case record, from May 17 through August 7, 2018
- D-4 Case Comments from Appellant's case record, from August 21 through August 28, 2018
- D-5 WV Income Maintenance Manual (WV IMM) Chapter 19, §19.4.2
- D-6 WV IMM Chapter 3, §3.4.1.A
- D-7 Letter from Department to Appellant, dated August 8, 2018
- D-8 Letter from Department to Appellant, dated August 28, 2018

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

## **FINDINGS OF FACT**

- 1) The Appellant completed a SNAP program review at the ██████ County office of the WV DHHR in ██████ WV, on May 17, 2018. During this review, she informed the Department that her daughter had moved from her home to live with and help care for the Appellant's mother, who suffered from dementia. She informed the Department her daughter would return to her home "in August."
- 2) The Appellant applied for the SCA program on behalf of her daughter on July 31, 2018 (Exhibit D-2).
- 3) On August 6, 2018, the Appellant called the DHHR's Customer Service Center (CSC) to report that her daughter had moved back into her home. According to the case recording entered by a CSC worker (Exhibit D-3), she did not specify the date her daughter moved back to her home.
- 4) On August 7, 2018, a worker at the WV DHHR, ██████ County Office, processed the Appellant's SCA application and denied it because her child was reported as not living in her home until August 6, 2018.
- 5) The Appellant requested a fair hearing to protest the denial of her SCA application.

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) §19.4.1 reads as follows: "All appropriate WV WORKS requirements in Chapter 2 apply."

WV IMM §19.4.2 reads as follows: "The Eligibility Determination Groups are the same as for WV WORKS. See Section 3.4."

WV IMM §3.4.1.A reads as follows in part: "The following individuals must be included in the [WV WORKS assistance group]: All minor, dependent, blood-related and adoptive siblings who live in the same household with a specified relative." Specified relatives include natural and adoptive parents.

WV IMM §19.3.1.I reads as follows: "The client and the Worker agree on the date by which additional verification must be obtained. The client must be given at least 10 days to return requested additional information."

## **DISCUSSION**

The Appellant applied for the SCA program on July 31, 2018 (Exhibit D-2). On this application, she listed her household as consisting of herself and her daughter. The Department denied her application because she had reported in May 2018 (Exhibit D-3) that her daughter would be spending the summer living with the Appellant's mother to provide care for her.

The Appellant had reported that her daughter returned to her home by a telephone call to the CSC on August 6, 2018 (Exhibit D-3). She testified during the hearing that her daughter had moved back to her home on July 26 or July 27, 2018, adding that she did not recall the exact day her daughter returned.

The Department denied the Appellant's SCA application based on information from the case recordings which indicated the Appellant did not report her daughter had returned to her home until August 6, 2018.

Policy states at WV IMM §19.3.1.I that an applicant should have a minimum of ten days to report required information. In this case, the Department did not "pend" or delay processing the Appellant's SCA application upon verification of the daughter's living arrangements. Instead, the Department, acting on the best information available that the daughter did not return to the Appellant's household until August 6, 2018, denied the application. However, using the ten-day period as a rubric or "rule of thumb" to determine a reasonable amount of time for the Appellant to report her daughter had returned to her household, the Appellant did inform the Department within this ten-day period.

### **CONCLUSIONS OF LAW**

- 1) Policy requires that a child must be residing in his or her parent's household during the month of July to be eligible for the SCA Program.
- 2) The Appellant reported on August 6, 2018, that her daughter had returned to her home. The daughter returned on July 26 or July 27, 2018.
- 3) Assuming the daughter returned on July 27, the Appellant notified the Department within a ten-day period.
- 4) The Appellant is eligible for the SCA Program on behalf of her daughter.

### **DECISION**

It is the decision of the State Hearing Officer to **reverse** the decision of the Respondent to deny the Appellant's application for the School Clothing Allowance Program.

**ENTERED this 28<sup>th</sup> day of September 2018**

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**Stephen M. Baisden**  
**State Hearing Officer**