



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

Bill J. Crouch
Cabinet Secretary

BOARD OF REVIEW
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Jolynn Marra
Interim Inspector General

January 25, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:18-BOR-2747

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,

Danielle C. Jarrett
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29
cc: Tera Pendleton, Department Representative

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

████████████████████,

Appellant,

v.

Action Number: 18-BOR-2747

**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 ██████████. 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 December 19, 2018, on an appeal filed November 9, 2018.

The matter before the Hearing Officer arises from the November 9, 2018 decision by the Department to deny the Appellant the option of spending her daughter's School Clothing Allowance (SCA) at her choice location for the 2018 benefit year. The Appellant also requested the issuance of two (2) SCA vouchers instead of one (1) SCA voucher.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker, WVDHHR. Appearing as witnesses for the Respondent was Maria Sisco-Wilson and Kathy Brumfield, West Virginia Works (WV Works) Supervisors, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 eRAPIDS system screenshot printout of Case Comments, dated August 29, 2018 through November 16, 2018
- D-2 West Virginia Income Maintenance Manual (WV IMM) §§ 19.4.10.A through 19.4.11.A

Appellant's Exhibits:

None

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) On July 27, 2018, the Respondent through its eRAPIDS system, issued SCA vouchers to the Appellant. (Exhibit D-1)
- 2) The Appellant did not receive July 27, 2018 - issued SCA vouchers.
- 3) On August 29, 2018, the Appellant contacted the DHHR Customer Service Center (CSC) via telephone regarding the status of her daughter's SCA vouchers and was advised by a worker that she was required to complete a lost voucher affidavit at the local office. (Exhibit D-1)
- 4) On September 7, 2018, the Appellant submitted a lost voucher affidavit to the local DHHR office, which was scanned into the DHHR's OnBase scanning system. (Exhibit D-1)
- 5) On September 19, 2018, the Appellant contacted the CSC regarding the status of her daughter's SCA vouchers. The CSC indicated that the SCA vouchers had not been processed and that the Appellant needed to check the status periodically. (Exhibit D-1)
- 6) On October 15, 2018, the Appellant contacted the CSC via telephone and was told that her replacement SCA vouchers had not been processed. (Exhibit D-1)
- 7) On October 31, 2018, Maria Sisco-Wilson (Supervisor Sisco-Wilson) printed one (1) replacement SCA voucher for the Appellant. (Exhibit D-1)
- 8) On October 31, 2018, Supervisor Wilson contacted the Appellant via telephone to let her know that she needed to retrieve her SCA voucher at the local DHHR office. (Exhibit D-1)
- 9) On November 9, 2018, the Appellant appeared at the local DHHR office to retrieve her daughter's SCA voucher. (Exhibit D-1)
- 10) On November 9, 2018, the Appellant was provided with a single SCA voucher, a BA-67, issued to Walmart in the amount of \$200. (Exhibit D-1)
- 11) The Appellant indicated that she preferred her daughter's SCA vouchers to be issued as two (2) separate \$100 vouchers.
- 12) The Appellant requested the SCA vouchers be issued to Children's Place, Gabe's, or both retailers.
- 13) Children's Place is not a participating SCA retailer.
- 14) Gabe's is a participating SCA retailer.

APPLICABLE POLICY

WV IMM § 19.2.1.D The Benefit provides in part:

All eligible Assistance Groups (AGs) will receive vouchers only. The voucher can not be returned for cash. The vouchers must be used at participating retailers. AGs with one eligible child will receive two (2) vouchers, each for one-half of the benefit amount. Vouchers are printed with the case name and address, denomination of the voucher and the individual benefit and voucher number assigned by the data system.

WV IMM § 19.3.1 Application Process provides in part:

An application for SCA, form DFA-WVSC-1, is mailed to families with school-age children who received SCA in the previous program year and who are included in an active Supplemental Nutrition Assistance Program (SNAP) or Medicaid assistance group (AG) in June of the current program year. Active SNAP AGs who have indicated they want to be evaluated for automatic issuance of SCA if determined eligible by the deadline for the current program year will not be mailed SCA application forms and will be included in the automatic issuance.

WV IMM § 19.3.1.K Agency Delays provides in part:

An application has not been acted upon within the required time limit due to agency error, corrective action must be taken immediately.

WV IMM § 19.3.1.M Beginning Date of Eligibility provides in part:

The eligibility system generates vouchers in a weekly cycle when eligibility is confirmed. SCA AG's confirmed on July 1 are mailed by mid-July. After that, vouchers are mailed on a weekly basis on the first working day of each week.

WV IMM § 19.4.11 Voucher Replacement provides in part:

If replaced SCA vouchers are issued prior to September 30 of the current program year, this may be done in the eligibility system. For replacement vouchers issued after September 30, the worker must contact the Family Support Policy Unit for additional instructions. Agency error and hearings are the only reason corrective action may be taken after December 31 of the program year. If any situation arises after October 31 of the current program year, the Family Support Policy Unit does an evaluation of a replacement on a case-by-case basis.

WV IMM § 19.4.11.A Undelivered or Damaged Vouchers provide in part:

If a voucher is lost in the mail prior to receipt, the worker must secure an affidavit for loss (DFA-SCA-2) from the client and issue the replacement voucher through

the eligibility system. When the voucher was not delivered by the United States Postal Service (USPS), the SCA can be replaced once the worker checks for postal return status before replacement. Instructions on procedures to replace the vouchers are found in the eligibility system user guide.

WV IMM § 19.4.11.D Agency Delay/Error provides in part:

If an application has not been acted on within the required time limit due to agency delay/error, corrective action must be taken immediately if the applicant is eligible. The worker must issue the voucher to the applicant. However, the Worker must first contact the DFA Family Support Policy Unit for additional information.

WV IMM § 19 – Appendix B: SCA Program Instructions provides in part:

You should receive vouchers for each of your eligible school-age children. If you do not, please contact your Worker in your local DHHR Office as soon as possible.

Vouchers can be used only for the purchase of your children's clothing and shoes. If you sew, you may purchase materials appropriate for making clothing.

All of your vouchers do not have to be used in the same store. You cannot, however, use part of a voucher in one store and the rest of the same voucher in another store.

If you purchase less than the amount of a voucher, the remainder cannot be refunded to you. Store policy will apply when your selections exceed the value of the voucher.

Make your selections and present the voucher to the clerk or store manager. You will be asked to sign the statement on the voucher certifying that you have received these purchases.

All vouchers must be used by the expiration date printed on the form.

DISCUSSION

SCA is a time-limited program that is only open during the month of July each year. Applications for benefit year 2018 were due by July 31, 2018, for eligibility to be established.

The Appellant applied on behalf of her daughter for SCA program benefits for the 2018 benefit year. The Respondent issued SCA vouchers on July 27, 2018 to the Appellant. The Appellant did not receive the July 27, 2018 issued SCA vouchers.

On August 29, 2018, the Appellant contacted the CSC regarding her daughter's SCA voucher. At that time, the CSC Worker stated that the eRAPIDS system indicated that the SCA voucher was issued to the Appellant on July 27, 2018. Because the Appellant stated that she had yet to receive

her daughter's SCA voucher, she was advised by the CSC Worker to file a lost voucher affidavit at the local DHHR office. The Appellant filed a lost voucher affidavit on September 7, 2018, and the affidavit was scanned into the Respondent's onBase system.

On September 19, 2018, the Appellant contacted the CSC to check the status of her daughter's lost SCA voucher. At that time, the worker informed her that the Case Worker was investigating the original SCA vouchers to ensure that they had not been redeemed and that once confirmed, replacement vouchers would be issued. The Appellant was advised to continue to check the status of the SCA vouchers periodically.

On October 15, 2018, the Appellant contacted the CSC once again regarding the status of her daughter's SCA vouchers. At that time, the worker sent an inquiry to Client Services for follow-up with the Appellant regarding the replacement vouchers.

On October 31, 2018, Supervisor Sisco-Wilson issued replacement voucher. On November 8, 2018, a DHHR Worker contacted the Appellant and explained to her that she needed go to the local DHHR office to retrieve her replacement SCA vouchers. On November 9, 2018, the Appellant appeared at the local DHHR office to retrieve her daughter's replacement SCA voucher. The replacement SCA voucher was issued to Wal-Mart for \$200. The Appellant testified that she did not want to purchase the clothing from Wal-Mart because she could not find her daughter \$200 worth of suitable clothing there. She added that if she had her choice, she would prefer the voucher to be issued for Children's Place, Gabe's, or both. The Respondent's witness, Supervisor Sisco-Wilson, testified that Wal-Mart was the Appellant's only option due to Wal-Mart being the only retailer listed in the Department's computer system. The Appellant argued that the original vouchers could be spent at a location of her choice, and she did not understand why the replacement voucher could only be used at Walmart. Supervisor Sisco-Wilson and Kathy Brumfield (Supervisor Brumfield) testified that since the SCA vouchers were expired when she received them, the only way to print a replacement SCA voucher was through an old billing system and that the only active vendor listed in the system was Wal-Mart.

The Appellant received one (1) \$200 SCA voucher and requested two (2) \$100 SCA vouchers to be issued. The Respondent's witnesses testified that it is easier to print one voucher in the old billing system for \$200 than it is to print two-separate \$100 vouchers. Supervisor Brumfield explained there is a new billing system for West Virginia Works (WV Works) and Social Services, but because the Appellant was not enrolled in WV Works and because the issue was not a Social Services situation, the only way to print replacement vouchers was through the old billing system.

The Respondent bears the burden of proof. To prove that it acted according to policy, the Respondent had to demonstrate by a preponderance of evidence that the Appellant was not permitted to have two (2) separate SCA vouchers for the retailer of her choice and she was not permitted to redeem her vouchers at any vendor other than Wal-Mart. The Appellant stated that she would like the vouchers to be for Children's Place or Gabe's. Under the SCA Program, Children's Place is not a participating retailer. Under the SCA Program, Gabe's is a participating retailer. Policy stipulates that the SCA vouchers must be used at participating retailers. Because Gabe's is a participating retailer the Appellant should not be restricted from redeeming her voucher at Gabe's. With regard to the Appellant's request for two (2) vouchers, policy establishes that if

the AG consists of only one (1) eligible child they will receive two (2) vouchers, each for one-half of the benefit amount.

The Appellant notified the Department she had not received her SCA vouchers beginning on August 29, 2018, but the Respondent failed to issue the replacement SCA vouchers until October 31, 2018. Policy indicates that if replacement SCA vouchers are issued prior to September 30 of the current program year, the action can be completed in the eligibility system. Even though the Department argued that they were unable to issue two (2) vouchers to a participating retailer because it was past the deadline, such action is not in accordance with established policy. Furthermore, the delay was a result of their own inaction.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, applications for SCA benefits must be made in July of the current program year.
- 2) The Appellant was issued two (2) SCA vouchers for \$100 each on July 27, 2018, but never received the vouchers via mail.
- 3) The Appellant was eligible for SCA benefits by the program deadline of July 31, 2018, and therefore was eligible for replacement of SCA benefits issued to participating retailers including Gabe's.
- 4) Policy established that the Appellant was entitled to two (2) SCA vouchers.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to deny the Appellant's SCA voucher to her choice location and two (2) \$100 vouchers.

ENTERED this _____ day January of 2019.

Danielle C. Jarrett
State Hearing Officer