



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

November 18, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:20-BOR-2298

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: Lisa Snodgrass, Department Representative

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

██████████,

Appellant,

v.

Action Number: 20-BOR-2298

**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 November 4, 2020, on an appeal filed October 2, 2020.

The matter before the Hearing Officer arises from the October 2, 2020 decision by the Department to deny the Appellant eligibility for School Clothing Allowance (SCA) benefits.

At the hearing, the Respondent appeared by Lisa Snodgrass, Family Support Specialist, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision, dated October 2, 2020
- D-2 Request for West Virginia WORKS (WV WORKS)/ Cash Assistance, dated August 18, 2020
- D-3 eRAPIDS computer system screenshot printout of Case Comments, dated August 20, 2020 through October 1, 2020
- D-4 eRAPIDS computer system screenshot printout of Case Benefit Summary, dated August 21, 2020
- D-5 People's Access To Help (PATH) School Clothing Allowance application, dated September 1, 2020
- D-6 West Virginia Income Maintenance Manual (WV IMM) § 19.4.11.D

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 September 1, 2020, the Appellant applied for School Clothing Allowance (SCA) eligibility on Child [REDACTED] behalf. (Exhibits D-3 and D-5)
- 2) The Appellant is the legal guardian and grandmother of Child [REDACTED]
- 3) On October 2, 2020, the Respondent issued notice advising the Appellant that she was ineligible for SCA as Child [REDACTED] already received the assistance. (Exhibit D-1)
- 4) Child [REDACTED] biological mother was issued an automatic voucher for \$200 because she was receiving SNAP in the AG for school year 2019.

APPLICABLE POLICY

WV IMM § 1.3.1.B explains that WV PATH is the online system that allows clients to be evaluated or apply for SCA benefits.

WV IMM § 3.3.2 reads the child must be living with a specified relative, who assumes primary responsibility for the child's care, in a place established as the relative's home. In order for an individual to be a caretaker relative, he must be a specified relative. Legal custody or guardianship of a child does not, in itself, qualify a person as a specified relative. A specified relative is any relation by blood, marriage, or adoption who is within the fifth degree of kinship to the dependent child.

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 explains if an application has not been acted upon within the required

time limit due to agency error, corrective action must be taken immediately.

WV IMM § 19.3.2.B reads the eligibility system automatically issues a denial notice.

WV IMM § 19.4.9 Corrective Action provides in part:

Procedures regarding issuing vouchers that were not automatically generated or not issued due to an incorrect birth date, relationship code, enrollment status, or when a child enters the household after SCA issuance can be found in the SCA Desk guide issued for the current program year.

Corrective action is required in the following circumstances:

- When an SCA-eligible child is added to an active WV WORKS AG after SCA vouchers have been issued;
- When the primary person changes after issuance but before the voucher is redeemed.

Division of Family Assistance (DFA) SCA Benefit Desk Guide explains the SCA season for 2020 is September 1st through September 30th. This is due to the COVID-19 pandemic. Due to SCA benefits being issued directly to the Primary Person's EBT Cash Account, there will not be a need for voucher functions to replace, release, or reissue SCA vouchers. However, the Auxiliary Voucher Request screen will be used to request auxiliary SCA payments (no SCA voucher will be issued). Upon submission a Supervisor will need to take appropriate action on the auxiliary request. Upon approval the SCA benefit will be available in EBT accounts after nightly batch and will appear as Cash (CA) benefits with \$200 issued per each eligible child. If SCA benefits are issued to an incorrect case:

- A Worker must determine if the incorrect individual will make the benefits available to the child.
 - If the benefits will be made available to the child, no further action is needed.
 - Thorough case comments must be completed in both cases.
- If the benefits will not be made available to the child and the primary person will not sign an IFM-EBT-1 or give verbal permission for the benefits to be removed, then the incorrect case must be referred to repayments.
 - Send an email to the appropriate Repayment Investigator with a description of the reason for the overpayment. Please include the case number and name in the email.
- If the client signs the IFM-EBT-1 or gives verbal permission for removal of those benefits, then follow the procedure listed below.
- Supervisors in the local office may complete the IFM-EBT-1 and remove the SCA benefits from the EBT account using the administrative terminal only if the child is not eligible for the benefit.
 - If the supervisor is unable to remove the benefits, he/she just needs to note that in the email when the IFM-EBT-1 form is scanned to the Repayment Investigator.

- The primary person may give verbal permission to remove the benefits.

An eligibility override will need to be completed in the correct case to issue SCA benefits using reason code 925 (WV WORKS SCA) or 926 (Governor's SCA).

DISCUSSION

The Division of Family Assistance (DFA) Policy Unit manages the SCA program that provides clothing vouchers for eligible families to be used to purchase clothing for their school-aged children. The application process is typically open from July 1 to July 31. Because of COVID-19, the SCA season for 2020 ran from September 1, 2020 through September 30, 2020. Individuals who met specified criteria were automatically issued Cash Assistance (CA) benefits for each qualifying child, in their case. Others received an application from the mass mailing run from the Department. Those who does not meet the criteria for an auto issuance or received an application during the mass mailing, were able to apply at the local office or online using WV PATH.

On August 28, 2020, the Appellant's WV WORKS Caretaker Relative application was processed via telephone. On September 1, 2020, the Appellant applied on behalf of her granddaughter, Child [REDACTED], for SCA program benefits for the 2020 benefit year. On September 23, 2020, the Appellant's SCA application was processed. On October 2, 2020, the Respondent issued notice advising the Appellant that she was ineligible for SCA as Child [REDACTED], already received the assistance. The Appellant contested the Respondent's eligibility denial for SCA benefits for Child [REDACTED]

The Respondent testified that due to auto-issuance of SCA benefits, Child [REDACTED] biological mother already received SCA benefits for Child [REDACTED] in a separate SNAP case because the Department's eRAPIDS computer eligibility system "was marked as yes to receive the benefit". No evidence was provided to show the date the SCA was issued. This Hearing Officer was unable to determine whether the Department took correct action since the Department delayed in sending her the notice until October 2, 2020, for an application received on September 1, 2020. The Respondent testified that because the absent parent indicated she had Child [REDACTED], she received the SCA benefits. Pursuant to policy, 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.

The Appellant testified that she has had legal custody of Child [REDACTED] since 2017. The Appellant indicated Child [REDACTED] biological mother has not cared for her in the last seven (7) years and that she has no parental rights to Child [REDACTED]. The Appellant alleged that Child [REDACTED] mother has committed welfare fraud by receiving benefits for Child [REDACTED]. The Appellant testified that she was told, when she applied for WV WORKS Caretaker Relative benefits, that she could not apply for SCA until September 1, 2020. The Appellant applied for SCA on September 1, 2020.

Per policy when SCA benefits are incorrectly issued due to an incorrect relationship code or when a child enters the household after SCA issuance, the Respondent must determine if the incorrect individual will make the benefits available to the child. If the benefits will be made available to

the child, no further action is needed. If the benefits will not be made available to the child and the primary person will not sign an IFM-EBT-1 or give verbal permission for the benefits to be removed, then the incorrect case must be referred to repayments. Although testimony revealed that the “incorrect individual” was referred to IFM, there was no evidence to support that the SCA funds were ever made available for Child [REDACTED] or the “incorrect individual” signed or was given the chance to sign an IFM-EBT-1.

CONCLUSIONS OF LAW

- 1) Children determined eligible for SCA are entitled to one (1) \$200 Cash Assistance payment for the 2020 benefit year.
- 2) Because Child [REDACTED] was incorrectly issued a \$200 SCA benefit for clothing year 2020 in her biological mother’s case, the Respondent failed to establish that corrective action was taken to ensure that the issued SCA benefit was used for Child [REDACTED]

DECISION

It is the decision of the State Hearing Officer to **REMAND** the decision of the Respondent to deny the Appellant’s SCA application in order for the Respondent to determine if the incorrect individual will make the benefits available to the child.

ENTERED this _____ day November 2020.

Danielle C. Jarrett
State Hearing Officer