



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street West  
Charleston, WV 25313

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

September 25, 2007

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 25, 2007. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for Diversionary Cash Assistance (DCA).

In arriving at a decision, the State Hearings 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 Diversionary Cash Assistance Program is based on current policy and regulations. Some of these regulations state in part:

DCA is available to an applicant at the Worker's discretion only. It is not a program for which the client applies and is found eligible or ineligible. The Worker and/or Supervisor must determine if a DCA payment is appropriate and offer it to an applicant. The applicant may choose to accept or decline without any effect on his eligibility for an ongoing WV WORKS check. Supervisory approval is required for all DCA payments. (West Virginia Income Maintenance Manual 1.25 Section S (2) - Diversionary Cash Assistance).

The information submitted at your hearing revealed: You did not meet the eligibility criteria for assistance.

It is the decision of the State Hearings Officer to **UPHOLD** the **DENIAL** of the Department in this particular matter.

Sincerely,

Ray B. Woods, Jr., M.L.S.  
State Hearing Officer  
Member, State Board of Review

cc: State Board of Review  
Ms. Alice Kayrouz, Hearings Representative

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 07-BOR-1947**

**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 concluded on September 25, 2007 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 scheduled for September 11, 2007 on a timely appeal filed August 20, 2007. The Hearings Representative was on sick leave and the hearing was rescheduled and convened on September 25, 2007.

It should be noted here that the Claimant is currently receiving Food Stamp and Medicaid benefits. A pre-hearing conference was held between the parties, and the Claimant did not have legal representation.

**II. PROGRAM PURPOSE:**

The Program entitled Diversionary Cash Assistance (DCA) is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

DCA provides an opportunity to relieve a temporary financial need as an alternative to receipt of ongoing WV WORKS payments. When the Worker and the applicant are confident that a one-time payment will meet the temporary need, DCA is explored.

WV WORKS eligibility must be established and an initial assessment conducted by the Worker before DCA is considered.

DCA is available only one time for an applicant family. Acceptance of the DCA payment in lieu of ongoing WV WORKS payments is an option for the client.

### **III. PARTICIPANTS:**

\_\_\_\_\_, Claimant

Alice Kayrouz, Family Support Specialist/Hearings Representative

Presiding at the Hearing was, Ray B. Woods, Jr., M.L.S., State Hearing Officer and a member of the State Board of Review.

### **IV. QUESTIONS TO BE DECIDED:**

The question(s) to be decided is: Does the Claimant meet the eligibility criteria?

### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual 1.25 Sections S (2) - Diversionary Cash Assistance; and 1.25 S (2) (c) Determining if DCA is Appropriate.

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

#### **Department's Exhibits:**

- A. Scheduling Notices
- B. WVIMM 1.25 S (2) & (c)

#### **Claimants' Exhibits:**

None

### **VII. FINDINGS OF FACT:**

1. The issue in this particular involves the denial of a Diversionary Cash Assistance (DCA) payment due to a third West Virginia Works Sanction.
2. The policy found at West Virginia Income Maintenance Manual Section 1.25 S (2) states in part,

DCA is available to an applicant at the Worker's discretion only. It is not a program for which the client applies and is found eligible or ineligible. The Worker and/or Supervisor must determine if a DCA payment is appropriate and offer it to an applicant. The applicant may choose to accept or decline without any effect on his eligibility for an ongoing WV WORKS check. Supervisory approval is required for all DCA payments.

3. The policy found at West Virginia Income Maintenance Manual Section 1.25 S (2) (c) states in part,

When the reason for the most recent AG closure is imposition of the 3<sup>rd</sup> or subsequent sanctions, no member of the sanctioned AG may be approved or included in a DCA AG upon reapplication.

4. Testimony from the Hearings Representative revealed the Family Support Supervisor denied the DCA because the Claimant had a third sanction placed on her case in the past. The third sanction was placed on the case in December 2006 for the period of January 2007 through March 2007.
5. Testimony from the Hearings Representative revealed the Claimant has not received a TANF check since December 2006.
6. Testimony from the Hearings Representative revealed she is also the assigned Case Worker who notified the Claimant on August 20, 2007 via telephone of the denial.
7. Testimony from the Hearings Representative revealed the Claimant requested a fair hearing due to the denial of the DCA.
8. Testimony from the Claimant revealed she was advised by an interviewing worker to request the DCA instead of applying for TANF benefits.

#### **VIII. CONCLUSIONS OF LAW:**

1. Policy states in part that DCA is available to an applicant at the Worker's discretion only. It is not a program for which the client applies and is found eligible or ineligible. The Worker and/or Supervisor must determine if a DCA payment is appropriate and offer it to an applicant.
2. Policy states in part that when the reason for the most recent AG closure is imposition of the 3<sup>rd</sup> or subsequent sanctions, no member of the sanctioned AG may be approved or included in a DCA AG upon reapplication.
3. The Claimant was not eligible for DCA because she failed to meet the eligibility criteria.

#### **IX. DECISION:**

It is the decision of this State Hearing Officer to **UPHOLD** the **ACTION** of the Department in this particular matter.

#### **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 25<sup>th</sup> Day of September 2007.**

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**Ray B. Woods, Jr., M.L.S.  
State Hearing Officer**