



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

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary

December 9, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 1, 2010. Your hearing request was based on the Department of Health and Human Resources' action in determining that you did not submit a West Virginia School Clothing Allowance (WVSCA) application for the program year 2010.

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 WVSCA Program is based on current policy and regulations. Some of these regulations state that as long as the WVSCA application is made by the last day of July and the applicant returns the requested information in the time frame specified by the Worker, the WVSCA is approved, if the family is otherwise eligible. (West Virginia Income Maintenance Manual Chapter 15, Appendix C)

Information submitted at your hearing shows that you did not submit a WVSCA application during the month of July 2010.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in determining that you did not apply for WVSCA during the 2010 program year.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Daniel McCord, [REDACTED] DHHR

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

-----,

Claimant,

v.

Action Number: 10-BOR-2095

**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 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 December 1, 2010 on a timely appeal filed September 24, 2010.

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% of the Federal Poverty Level.

II. PARTICIPANTS:

-----, Claimant

-----, Claimant's witness

Daniel McCord, Department Representative

-----, Department's witness

Presiding at the hearing was Cheryl Henson, 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 its determination that the Claimant did not apply for WVSCA for program year 2010.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 15, Appendix C

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

None

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant visited the [REDACTED] County, West Virginia Department of Health and Human Resources' office in [REDACTED] West Virginia, on July 20, 2010 in order to notify the office that he had recently moved to West Virginia from another state and to determine what was needed in order for him to activate his benefits in West Virginia.
- 2) The Claimant testified that on that date, he was informed by someone at the front desk that he would need to verify that his benefits were terminated in the other state prior to becoming eligible in West Virginia. He added that the individual at the front desk provided him with an application for West Virginia School Clothing Allowance (WVSCA) at that time. He stated that he completed the form while at the office and deposited the form into a gray box in the Department's lobby as instructed prior to leaving on July 20, 2010.
- 3) The Claimant's witness, -----, corroborated the Claimant's testimony regarding the submission of the WVSCA application. She stated that she accompanied the Claimant to the office on July 20, 2010 and witnessed him complete and deposit the application into the gray box in the Department's lobby.
- 4) The Department contends that the application was not received. The Department's representative, Daniel McCord, testified that a specific process is in place which requires someone to log all mail that is deposited into the gray box in the Department's lobby. He testified that he checked all the mail logs and was unable to determine that an application for WVSCA was submitted by the Claimant.

- 5) Testimony from the Department's mail clerk, ----, supported that she also reviewed the mail logs for the month of July 2010 and found no documents logged as having been submitted by the Claimant. She testified that she is the employee who logs all mail that is received, and is familiar with the process. She added that she also checked the fax log and was unable to find anything to substantiate that the Claimant submitted the application.
- 6) West Virginia Income Maintenance Manual Chapter 15, Appendix C states in pertinent part:

As long as the application is made by the last day of July and the applicant returns the requested information in the time frame specified by the Worker, the WVSCA is approved, if the family is otherwise eligible. In ROADS will accept applications from July 1st through July 31st and the signature page must be received in the local office no later than the 10th day of August.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides a specific procedure for applying for West Virginia School Clothing Allowance (WVSCA) vouchers. When submitting an application, the individual is required to complete and return that application prior to July 31st of the program year, along with any requested verification, in order to be considered for the program. As long as the application is submitted prior to July 31st of the program year, the Department considers it to be timely submitted.
- 2) The totality of the evidence shows that the Claimant did not complete and return the WVSCA application prior to July 31, 2010. The Department's process for logging all mail, including mail deposited into boxes located within its doors, is found to be sufficiently reliable for tracking purposes. Witness testimony from the Department employees supports that there is no record of the mail having been received. Although the Claimant and his witness provided testimony supporting that the application was submitted on July 20, 2010, no other supporting evidence was provided by him in support of this claim.
- 3) The Department was correct in the determination that no WVSCA application was received from the Claimant during the 2010 program year.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's determination that no WVSCA application was received for program year 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 9th Day of December, 2010.

**Cheryl Henson
State Hearing Officer**