



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

February 7, 2019



RE: [REDACTED] v. WVDHHR
ACTION NO.:18-BOR-2759

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-2759

**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 20, 2018, on an appeal filed November 15, 2018.

The matter before the Hearing Officer arises from the November 15, 2018 decision by the Department to deny the Appellant the option of spending her son'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, West Virginia Works (WV Works) Supervisor; Kathy Brumfield, WV Works Supervisor; David Rinehart, Economic Service Worker; and Megan O'Neal, Economic Service Worker. The Appellant appeared ██████████, Paralegal for Legal Aid of West Virginia. 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 July 17, 2018 through November 2, 2018
- D-2 West Virginia Income Maintenance Manual (WV IMM) § 19.4.11.D
- D-3 WV IMM § 19- Appendix B: School Clothing Allowance Program Instructions

Appellant's Exhibits:

- A-1 WV IMM § 19.3.1 through 19.4.10
- A-2 West Virginia Division of Health Vital Registration Office – copy of a Certificate of Birth and copy of Social Security card

- A-3 Supplemental Nutrition Assistance Program (SNAP) and Medicaid/WVCHIP Review, dated June 12, 2018; and Notice of Decision, dated July 13, 2018
- A-4 eRAPIDS system screenshot/printout of Client Notices Summary, dated June 6, 2018 through November 7, 2018
- A-5 Notice of Decision, dated July 13, 2018
- A-6 Notice of Decision, dated November 5, 2018
- A-7 Notice of Decision, dated November 8, 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) On July 13, 2018, the Department, through its computer system, issued an evaluation notice to the Appellant for SCA benefits indicating that her son may be eligible for SCA. The notice indicated that if the Appellant wanted to apply for SCA benefits to contact her local Department of Health and Human Resources (DHHR) office for instructions. (Exhibit A-5)
- 2) The Appellant submitted her application on an unknown date on or before August 3, 2018.
- 3) On August 3, 2018, the Appellant's application for the issuance of SCA was partially processed for two (2), \$100 vouchers and was improperly pended for verification of self-employment expenses. (Exhibit D-1)
- 4) On August 3, 2018, the Department failed to confirm the SCA application and approve the SCA vouchers through the Department's computer system. (Exhibit D-1)
- 5) On November 2, 2018, The Department conducted a pre-hearing conference with the Appellant and her representative. At that time, the Department verified that SCA vouchers should not have been pended and should have been approved and issued to the Appellant on August 3, 2018. (Exhibit D-1)
- 6) The Appellant's income was verified on July 17, 2018. (Exhibit D-1)
- 7) On November 2, 2018, the Tera Pendleton (Economic Service Worker Pendleton) issued an email request to Kathy Brumfield (Supervisor Brumfield) for the issuance of SCA vouchers. (Exhibit D-1)
- 8) On November 7, 2018, the Department issued one (1) SCA voucher in the amount of \$200 to the Appellant redeemable at [REDACTED]. (Exhibit D-1)
- 9) The Appellant requested that two (2) SCA vouchers be issued to [REDACTED].

10) [REDACTED] 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 § 19.4.5 reads that SCA income eligibility is based only on the month of July. When income has been previously verified within the last two (2) months, additional income verification is not required.

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.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.

On August 3, 2018, the Appellant's application on behalf of her son for SCA program benefits for the 2018 benefit year was partially processed and pended for verification of self-employment expenses. The Department worker failed to confirm the SCA application. As a result, notice requiring submission of self-employment expenses was not issued and SCA vouchers were not approved for issuance. Economic Service Worker Pendleton testified that the application was partially processed by a new worker who entered the application information into the computer system. Per Department procedures, new workers are not permitted to confirm benefits entered into the computer system. All applications entered by new workers must be confirmed by either a

supervisor or tenured worker. Due to procedural error, the SCA application was not approved in the system.

On November 3, 2018, Economic Service Worker Pendleton reviewed the Appellant's case record and determined SCA should not have been pended for verification because income was verified on July 17, 2018. Policy indicates that SCA income eligibility is based only on the month of July. When income has been previously verified within the last two (2) months, additional income verification is not required.

Economic Service Worker Pendleton testified that because the failure to approve the SCA application was due to an agency error, corrective action was taken and the Appellant was issued one (1) SCA voucher in the amount of \$200 on November 2, 2018. At that time, the Appellant contested the Respondent's issuing of one (1) SCA voucher to Wal-Mart.

The Appellant's representative argued that the Appellant's SCA vouchers were not issued in a timely manner due to an agency error and that the replacement vouchers should have been for the Appellant's choice of participating retailer. The Appellant's representative indicated that the Appellant preferred the SCA voucher for [REDACTED] because she could get three times the amount of adequate clothing for her son than from [REDACTED]. The Appellant prefers [REDACTED] brand clothing because her son has been teased at school for his clothing.

Supervisor Brumfield testified that [REDACTED] was the Appellant's only option because it is the only retailer listed in the Department's computer system. The Appellant's representative argued that the original SCA vouchers could be spent at a location of the Appellant's choice and that she did not understand why the replacement vouchers could only be issued for [REDACTED]. Supervisor Brumfield testified that since the SCA vouchers were expired due to being issued after September 30, 2018, the only way to print the replacement SCA voucher was through an old billing system and the only active vendor listed in the system was [REDACTED].

The Appellant's representative also questioned why the Appellant was issued one (1) SCA voucher and not two (2) SCA vouchers. The Department's representative and witness, testified that it is easier to print out one (1) voucher in the old billing system for \$200 than it is to print two-separate \$100 vouchers when the vouchers were issued for the same retailer. Supervisor Brumfield explained there is a new billing system for WV Works and Social Services, but because the Appellant was not enrolled in WV Works and because the issue was not a Social Service 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 be issued 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 [REDACTED]. The Appellant's representative indicated that the Appellant would like the vouchers to be for [REDACTED]. Under the SCA Program, [REDACTED] is a participating retailer. Policy stipulates that the SCA vouchers must be used at participating retailers. Because [REDACTED] is a participating retailer the Appellant should not be restricted from redeeming her vouchers at [REDACTED]. 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.

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. Although the Department made an error by not issuing the SCA vouchers prior to September 30, 2018, they argued they were not required to issue vouchers to the Appellant's choice of participating retailers. 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) The Appellant was eligible for SCA for one (1) child in her home.
- 2) The Appellant is entitled to the issuance of two (2) SCA vouchers for \$100 each in accordance with policy.
- 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 [REDACTED].

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 the issuance of two (2) \$100 vouchers.

ENTERED this _____ day February 2019.

Danielle C. Jarrett
State Hearing Officer