



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

**Bill J. Crouch
Cabinet Secretary**

**Board of Review
State Capitol Complex
Building 6, Room 817-B
Charleston, West Virginia 25305
Telephone: (304) 350-0805 Fax: (304) 558-1992**

**Jolynn Marra
Interim Inspector General**

September 14, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-1919

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Rebecca Skeens, DHHR

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

██████████,

Appellant,

v.

Action No.: 21-BOR-1919

**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 August 31, 2021, on an appeal filed August 11, 2021.

The matter before the Hearing Officer arises from a determination by the Respondent that the Appellant did not qualify for an automatic mailing of a School Clothing Allowance (SCA) application or for an automatic determination of SCA eligibility.

At the hearing, the Respondent appeared by Rebecca Skeens. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- | | |
|-----|---|
| D-1 | Notice of SNAP termination, dated June 18, 2021 |
| D-2 | West Virginia Income Maintenance Manual, Chapter 19.3 (excerpt) |

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) The Appellant was a recipient of SNAP benefits in June 2021.
- 2) The Appellant was a recipient of School Clothing Allowance (SCA) benefits in prior program years.
- 3) The Appellant has school-age children.
- 4) The Respondent issued a notice (Exhibit D-1) to the Appellant on June 18, 2021, advising the Appellant that her SNAP benefits were being closed because she "...did not complete an Eligibility Review."
- 5) This notice (Exhibit D-1) read, "You will receive your last benefit in the month your certification period expires, June 2021."
- 6) This notice (Exhibit D-1) additionally provided a more specific effective date for the proposed SNAP action, and read, "You will not receive this benefit after 06-30-2021."
- 7) The Appellant was in an active SNAP assistance group (AG) through the entire month of June 2021.
- 8) The Appellant was not mailed an SCA application.
- 9) The Appellant was not automatically evaluated for SCA eligibility.
- 10) The Appellant conducted a late review for SNAP on or about July 6 or July 7, 2021.
- 11) During the July 2021 SNAP review, the Appellant was not informed of her right to apply for SCA or offered an explanation of the SCA program benefits.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM), §1.2.1.A outlines an applicant's right to apply, and provides in part (emphasis added):

In addition to addressing all questions and concerns the client may have, the Worker must explain the benefits of each program **and inform the client of his right to apply for any or all of them. No person is denied the right to apply**

for any Program administered by the Division of Family Assistance (DFA) or the Bureau for Medical Services (BMS). Every person must be afforded the opportunity to apply for all Programs on the date he expresses his interest.

West Virginia Income Maintenance Manual (WVIMM), §19.3.1 outlines the School Clothing Allowance (SCA) application process, and provides in part:

An Application for West Virginia School Clothing Allowance (WVSCA), form DFA-WVSC-1, will be mailed to families with school-age children who received WVSCA 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 School Clothing Allowance (SCA) if determined eligible by the deadline for the current program year will not be mailed WVSCA application forms and will be included in the automatic issuance.

DISCUSSION

The Appellant has appealed a determination by the Respondent that she was not qualified to either receive an application for School Clothing Allowance (SCA), or to be automatically evaluated for the program. The Respondent must show by a preponderance of the evidence that it was correct to neither mail the Appellant an SCA application nor to evaluate her eligibility for the program without an application.

The Respondent contended that the Appellant did not receive an application for SCA because she was not in an active assistance group (AG) for SNAP in June 2021. The notice to the Appellant regarding closure of her SNAP benefits (Exhibit D-1) was clearly dated in June 2021 – in time to take effect in July 2021. The notice refers to the effective date twice, and clearly shows the Appellant was in an active SNAP AG throughout the month of June 2021.

The Appellant conducted a late SNAP review with the Respondent in early July 2021. The policy requires Respondent workers to both explain and inform applicants about programs for which they may potentially be eligible. SNAP reviews must include a review of household members, including their date of birth. Convincing testimony from the Appellant confirmed that the Appellant was not given information about SCA during her SNAP review, or she would have applied at that time. The Appellant also testified that she received SCA in past years.

Because the Appellant was not mailed an application for SCA, not evaluated for SCA eligibility automatically, and not afforded the opportunity to apply for SCA in early July 2021 during her SNAP review, the actions of the Respondent cannot be affirmed. The matter is remanded to the Respondent to deliver a SCA application to the Appellant. Because a properly delivered application would have given the Appellant a month to complete the application, the Respondent must allow 30 days from the application mailing date, process any application received, and

properly notice the resulting eligibility determination. The Appellant retains the right to appeal a denial of SCA from that resulting determination.

CONCLUSIONS OF LAW

- 1) Because the Appellant was eligible for SNAP throughout June 2021, the Respondent was required to mail an SCA application and must do so.
- 2) Because the Respondent failed to explain SCA benefits and inform the Appellant of her right to apply for SCA during a July 2021 SNAP review, the Appellant was denied the right to apply for SCA and must be provided an equivalent right to apply.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's determination that the Appellant did not qualify for a mailed School Clothing Allowance (SCA) application or for an automatic evaluation of her eligibility for SCA. The matter is therefore **REMANDED** to the Respondent to deliver an application to the Appellant, process any SCA application received from the Appellant within 30 days of the mailing date, and issue a notice regarding the SCA eligibility determination. The Appellant retains the right to appeal any subsequent SCA denial.

ENTERED this ____ Day of September 2021.

Todd Thornton
State Hearing Officer
Member, State Board of Review