



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review**

**Sherri A. Young, DO, MBA, FAAFP
Interim Cabinet Secretary**

**Christopher G. Nelson
Interim Inspector General**

October 26, 2023



RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR- 2993

Dear [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,

Tara B. Thompson, MLS
State Hearing Officer
Member, State Board of Review

Encl: Decision Recourse
Form IG-BR-29

CC: Beverly Hart, [REDACTED] DHHR

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

████████████████████,

Appellant,

v.

Action Number: 23-BOR-2993

**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 October 25, 2023.

The matter before the Hearing Officer arises from the Respondent's August 16, 2023 decision to deny the Appellant eligibility for West Virginia School Clothing Allowance (WVSCA) benefits.

At the hearing, the Respondent was represented by Beverly Hart, Economic Services Supervisor. The Appellant appeared and represented himself. All witnesses were sworn in and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia DHHR Application for WVSCA
- D-2 West Virginia Income Maintenance Manual Chapter 19 Policy Excerpts

Appellant's Exhibits:

- A-1 Website Screenshots

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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant applied for and received West Virginia School Clothing Allowance (WVSCA) benefits for his two school-aged grandsons in 2022.
- 2) The Appellant's grandsons are Medicaid recipients.
- 3) The Respondent did not mail the Appellant an application for WVSCA in June 2023.
- 4) On August 4, 2023, the Appellant completed an application for WVSCA eligibility (Exhibit D-1).
- 5) On August 16, 2023, the Respondent issued a notice advising the Appellant his application for WVSCA was denied because the SCA season had ended.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 19.3.1 *Application Process* provides in relevant sections:

An application for WVSCA 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 All other applicants must complete a DFA-WVSC-1, DFA-2, or use WV PATH to apply for WVSCA.

WVIMM § 19.3.1.K *Agency Delays* provides:

If an application has not been acted upon within the required time limit due to agency error, corrective action must be taken immediately.

WVIMM § 19.3.1.J provides in relevant section:

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. Applications received after July 31 of the current program year must be denied for being received out of season.

DISCUSSION

The Respondent denied the Appellant's eligibility for WVSCA because his application was submitted after the July 31, 2023 deadline. The Appellant argued that the Appellant was required to send him an application and that because the Respondent did not send him an application as required, it delayed his submission of his application.

The policy stipulates that applications for WVSCA will be mailed to families with school-age children who received WVSCA in the previous program year and who are included in an active Medicaid AG in June of the current program year. Pursuant to the policy, if an agency error causes a delay in acting upon an application, corrective action must be taken. The Respondent had to demonstrate by a preponderance of the evidence that an agency error did not delay the processing of the Appellant's WVSCA application.

During the hearing, the Respondent's representative testified that WVSCA applications were issued in June 2023 by computer and not by the Respondent's worker. The Respondent's representative testified that because the Appellant did not receive an automatically mailed application, he was required to request, complete, and apply by July 31, 2023.

During the hearing, the Appellant testified that his grandchildren were benefit recipients and that a WVSCA application should have been mailed to him in June 2023. The Respondent did not refute that the Appellant was a benefit recipient in June 2023. The Appellant testified that because this is his second year as guardian for his grandchildren, he was unsure if he would receive a WVSCA application or automatic WVSCA issuance. He testified that when he did not receive an application or automatic issuance of WVSCA, he inquired about whether he needed to apply and was provided with an application at that time, but it was after the deadline.

Testimony provided by the parties during the hearing revealed that the Respondent did not mail a WVSCA application to the Appellant in June 2023. The Respondent did not provide a reason for why the Appellant was not mailed an application in June 2023. The preponderance of the evidence demonstrated that the Respondent should have mailed the Appellant a WVSCA application in June 2023. Because the Respondent failed to mail the Appellant an application, it resulted in a delay of processing his application.

CONCLUSIONS OF LAW

- 1) Because the Appellant's AG included school-age children who received WVSCA in the previous program year and were included in an active Medicaid AG in June 2023, the Respondent was required to mail the Appellant an application for WVSCA in June 2023.
- 2) The preponderance of evidence revealed that the Respondent did not mail the Appellant an application in June 2023.
- 3) The Respondent's error in not mailing the Appellant a WVSCA application in June 2023 caused a delay in the processing of the Appellant's application for WVSCA benefit eligibility.
- 4) Because the Respondent's error caused a delay in the processing of the Appellant's application, the Respondent incorrectly denied the Appellant's WVSCA eligibility because his application was submitted after the deadline.

- 5) When an application has not been acted upon within the required time limit due to agency error, corrective action must be taken immediately.
- 6) The Respondent must make a new determination of the Appellant's WVSCA eligibility based on the information provided on the Appellant's WVSCA application.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to deny the Appellant eligibility for WVSCA because his application was submitted after the deadline. The matter is **REMANDED** for determination of the Appellant's WVSCA eligibility based on the information provided on his application.

Entered this 26th day of October 2023.

Tara B. Thompson, MLS
State Hearing Officer