



**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**

November 15, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-3101

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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

Encl: Recourse to Hearing Decision  
Form IG-BR-29

cc: Ruth Skinner, WVDHHR

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

██████████,

**Appellant,**

v.

**Action Number: 23-BOR-3101**

**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 November 7, 2023.

The matter before the Hearing Officer arises from the decision by the Respondent to deny West Virginia School Clothing Allowance benefits.

At the hearing, the Respondent appeared by Ruth Skinner, Economic Services Supervisor, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Electronic mail transmission from WVDHHR Client Services Unit dated October 4, 2023
- D-2 Notice of Decision dated March 17, 2023, regarding Supplemental Nutrition Assistance Program (SNAP) termination based on failure to complete an eligibility review
- D-3 SNAP review form mailed on February 15, 2023

**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 contacted the WVDHHR Client Services Unit on October 4, 2023, and reported that she was denied West Virginia School Clothing Allowance benefits for her son (Exhibit D-1).
- 2) The child's father applied for and/or was issued WVSCA benefits for the child on July 5, 2023.
- 3) At the time of the WVSCA approval, the Appellant and the child's father shared joint 50/50 custody of the child.
- 4) The Appellant contacted the WVDHHR [REDACTED] Office and inquired about making an application for WVSCA benefits for her son during the WVSCA application season.
- 5) During the call, the Appellant was informed that her son had already been approved for WVSCA benefits in his father's case.
- 6) The Appellant did not complete an application for WVSCA because she was told that only one parent can receive WVSCA for a child.
- 7) The Appellant's custody order was amended on July 25, 2023, and the Appellant now has primary custody of the child.
- 8) The Appellant had inquired about potential SNAP benefits during her telephone call with Client Services, but stated she did not wish to contest the issue of SNAP benefits during the hearing.
- 9) It should be noted that the Appellant's SNAP benefits were terminated in March 2023 based on failure to complete an eligibility review (Exhibits D-2 and D-3).

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 19.3.1 addresses the WVSCA application process and states:

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. When there is a child in the case who is less than 5 or older than 17, the eligibility system will send a DFA-WVSC-1 during the regular mass mailing. All other applicants must complete a DFA-WVSC- 1, DFA-2, or use WV PATH to apply for WVSCA.

West Virginia Income Maintenance Manual Chapter 19.3.1.B states:

The Department of Health and Human Resources (DHHR) responds to requests for WVSCA applications to be mailed to potential applicants and accepts applications submitted by mail. If an individual requests the application by telephone, the application is mailed on the date of the telephone call. If the individual requests the application by letter, an application form is mailed on the day the request for the application is received in the local office.

West Virginia Income Maintenance Manual Chapter 19.3.1.G states that the specified relative with whom the child lives must sign the DFA-WVSC-1 or submit an electronic signature. Only one signature is required.

West Virginia Income Maintenance Manual Chapter 19.4.2 states that the Eligibility Determination Groups for WVSCA are the same as for WV WORKS as cited in Chapter 3.4.

West Virginia Income Maintenance Manual Chapter 3.4.1.A states that in cases of joint custody, only the custodial parent is included. The custodial parent is the one with whom the child(ren) lives more than 50% of the time in a given month. The custodial parent of any child may change from month to month. If the child lives with each parent exactly 50% of the time, the parents must decide who the custodial parent is.

Chapter 1.2.1.A of the Manual states that 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.

## **DISCUSSION**

Policy states that the specified relative with whom the child lives must sign the WVSCA or submit an electronic signature. Only one signature is required. In cases of joint 50/50 custody, the parents must designate the custodial parent. If an individual requests an application by telephone, the application is mailed on the date of the telephone call. No person is denied the right to apply for Division of Family Assistance Programs.

The Appellant questioned why the child's father was permitted to apply for WVSCA benefits for her son when she has the child the majority of the time. She testified that, as far as she knows, the child's father used the clothing voucher for the child's needs. The Appellant stated that the child custody arrangement was 50/50 at the time the WVSCA voucher was issued and there was no primary caregiver. She indicated that her son's father would not allow her to use any of the benefit for her son.

The Respondent's representative testified that either parent can apply for the WVSCA benefit in 50/50 custody situations. In addition, some vouchers are automatically mailed if a child is receiving SNAP benefits in a parent's case. As the Appellant now has primary custody of her son, the Respondent's representative explained how the Appellant could apply for SNAP benefits as the primary caregiver of the child.

The Appellant did not make an application for WVSCA benefits because she was told that she could not receive the benefit. While the Appellant was essentially denied the right to apply, there is no relief available. The Appellant confirmed that a 50/50 custody arrangement was in place at the time of application with no designated primary caregiver. While the child's father could have consulted with the Appellant about which parent should receive the WVSCA benefit, the child received the clothing voucher, nonetheless.

### **CONCLUSIONS OF LAW**

- 1) The Appellant inquired about making a WVSCA application for her child.
- 2) The Appellant did not make an application because she was informed that the child's father had already received a clothing voucher for the child.
- 3) The Appellant was essentially denied the right to apply for WVSCA.
- 4) The Appellant shared 50/50 custody of her son at the time of the WVSCA approval.
- 5) While the Appellant was not consulted about which parent should receive the WVSCA voucher at the time of application, there is no relief available since the child received the benefit.

### **DECISION**

Although the Appellant was denied the right to apply for the WVSCA Program, it is affirmed that her son received a clothing allowance through his father's case, and the parents had 50/50 custody of the child at the time the benefit was issued. It is outside of the Board of Review's authority to grant relief to the Appellant.

**ENTERED this 15th day of November 2023.**

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**Pamela L. Hinzman  
State Hearing Officer**