



September 26, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 24-BOR-2960

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 Human Services. These same laws and regulations are used in all cases to ensure 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: Recourse to Hearing Decision
Form IG-BR-29

cc: Rebecca Roush, Department Representative
Charles Cline, Department Representative

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

████████████████████

Appellant,

v.

Action Number: 24-BOR-2960

**WEST VIRGINIA DEPARTMENT OF
HUMAN SERVICES
BUREAU FOR FAMILY ASSISTANCE,**

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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on September 24, 2024, upon a timely appeal filed on August 15, 2024.

The matter before the Hearing Officer arises from the July 1, 2024 decision by the Respondent regarding School Clothing Allowance (SCA) benefits.

At the hearing, the Respondent appeared by Rebecca Roush. The Appellant appeared pro se. Appearing as a witness was ██████████. All witnesses were sworn and the following documents were admitted into evidence.

The Respondent was previously the Department of Health and Human Resources (DHHR) and its Bureau for Family Assistance (BFA) was previously known as the Division of Family Assistance (DFA). The language of this decision will reflect the current names but may reference policy or other documents that have not been correctly updated.

Department's Exhibits:

- D-1 Notice of decision, dated July 1, 2024
- D-2 Case comments (screen print) from the Respondent's data system regarding the Appellant's case

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's household consists of three children.
- 2) Two of the children in the Appellant's household are foster children.
- 3) The Appellant met the criteria for an automatic evaluation of her household's eligibility for School Clothing Allowance (SCA) benefits.
- 4) As a result of this automatic evaluation, the Respondent did not approve the two foster children in the Appellant's home for SCA benefits.
- 5) The Respondent issued a July 1, 2024 (Exhibit D-1) notice to the Appellant advising of this decision, which listed one child as eligible for \$200 in SCA benefits.
- 6) The notice (Exhibit D-1) additionally noted individual denials for the two children, with the reason for denial noted as "is covered by Foster Care."
- 7) The Appellant did not receive SCA benefits as noted in policy, from "...the Bureau for Children and Families (BCF) Office of Child and Adult Services..."
- 8) The Appellant contacted her Respondent worker, with the Bureau of Family Assistance (BFA), to determine the reason that both Respondent branches denied SCA benefits.
- 9) The Respondent BFA worker was unable to obtain an issuance date for SCA benefits from the Respondent's Office of Child and Adult Services.
- 10) The Appellant did not receive SCA benefits from either the Respondent's BFA branch or the Respondent's Office of Child and Adult Services.
- 11) The Respondent did not accept or offer an application for SCA benefits from the Appellant during the timeframe in which applications for the seasonal program can be accepted.

- 12) The Respondent's BFA branch may pay SCA benefits when the Respondent's Office of Child and Adult Services fails to do so for foster care children.

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 19.2.1.D documents, in pertinent part:

...
NOTE: Foster parents receive one check for all children in the foster home. This is handled by the Bureau for Children and Families (BCF) Office of Child and Adult Services. No Division of Family Assistance (DFA) application is necessary.
...

West Virginia Income Maintenance Manual § 1.2.1.A documents, in pertinent part:

...
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 § 19.3.1.B reads:

The Department of Health and Human Resources (DHHR) [*sic*] responds to requests for 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 § 19.3.1.C provides in part:

...All applications for school clothing must be received or postmarked no later than the last day of the intake month...

DISCUSSION

The Appellant requested a fair hearing to contest the actions of the Respondent regarding the Appellant's household eligibility for SCA benefits. The Respondent must show, by a preponderance of the evidence that it correctly determined SCA eligibility for the Appellant's household.

The Appellant met the criteria for an automatic consideration of SCA eligibility and was approved for SCA benefits for one child. The Appellant's household includes two foster children who were not approved for SCA. The Respondent's notice – from its BFA branch – explains that it denies SCA payment because another branch of the same department will be paying it. In the Appellant's case, all reliable evidence and testimony showed that the branch of the Respondent responsible for making SCA payments for foster children failed to do so. A Respondent representative from the BFA offered testimony during the hearing, and no Respondent representative or witness from the Office of Child and Adult Services was present.

When the Appellant discovered that she did not receive SCA payment for the foster children in her home, she contacted her worker within the Respondent's BFA division. This worker attempted to verify that the Office of Child and Adult Services had issued SCA payment but was unsuccessful. Credible testimony established that the Office of Child and Adult Services could not provide an issuance date for SCA payment to the Appellant for the two foster children in her home. During the contact between the Appellant and the Respondent BFA worker, when the Appellant was 'expressing interest' in SCA payment, no application was provided to the Appellant. Testimony from the Respondent's representative noted that the Appellant should have been given an application while SCA – a seasonal program with annual program deadlines – was still in its open season. Testimony additionally established that the Respondent's BFA division could have processed such an application and issued the SCA benefits the Office of Child and Adult Services failed to provide.

The facts established at hearing reveal both a delay in processing of SCA benefits by the Office of Child and Adult Services and a denial of the right to apply for those benefits by the Respondent's BFA. Because the Respondent's BFA discovered or determined after the SCA season that it could accept a SCA application and pay SCA benefits, the actions of the Respondent cannot be affirmed. The Respondent must provide a SCA application to the Appellant and disregard the ordinary seasonal program deadlines. However, the Respondent must still abide by a replacement deadline to correspond as closely as possible to SCA policy. From the date the Respondent mails an application to the Appellant, the Appellant has 31 days to return a completed application. The Respondent will treat the date they mail the SCA application to the Appellant as the beginning of the 'intake month' for the Appellant, as referenced in WVIMM § 19.3.1.C. The Appellant will retain the right to a hearing on any subsequent SCA denial.

CONCLUSIONS OF LAW

- 1) The Respondent provides SCA benefits to eligible children through different branches, depending on their Foster Care status.
- 2) Because the Respondent's Office of Child and Adult Services did not issue SCA benefits, the Respondent's Bureau of Family Assistance may not deny SCA benefits because children are "...in Foster Care."
- 3) Because the Respondent's Bureau of Family Assistance did not offer or mail a SCA application when the Appellant expressed interest in the program, the Appellant was denied the right to apply for SCA.

- 4) For the Respondent to take corrective action after the seasonal SCA program has ended, it must mail a SCA application to the Appellant and treat the mailing date as the beginning of a recreated “intake month,” allowing the Appellant 31 days to return a complete SCA application.
- 5) The Respondent must issue notification to the Appellant regarding the outcome of that SCA application, and if approved, issue the SCA benefits.
- 6) The Appellant retains the right to appeal any subsequent SCA denial or negative action.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to deny the Appellant’s SCA application and **REMAND** the matter to the Respondent to recreate a 31-day intake month in which the Appellant may reapply for SCA without regard to ordinary seasonal deadlines. The Respondent must mail a SCA application to the Appellant and start the recreated intake month from that mailing date. The Respondent must notify the Appellant of its subsequent decision, and the Appellant retains the right to a hearing on any unfavorable decision.

ENTERED this _____ day of September 2024.

**Todd Thornton
State Hearing Officer**