



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

June 5, 2006

Dear Ms. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 10, 2006. Your hearing request was based on the Department of Health and Human Resources' decision to establish a Cash Assistance claim against your household.

In arriving at a decision, the State Hearings 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.

Eligibility for Cash Assistance, WV Works, is based on current policy and regulations. Some of these regulations state as follows: When an assistance group has been issued more Cash Assistance than it was entitled to receive, corrective action is taken by establishing a claim. Collection action is initiated against the Assistance Group which received the overpayment. All claims, whether established as a result of an error on the part of the Agency or the household, are subject to recoupment. (West Virginia Income Maintenance Manual ' 10.4, C & 20.2)..

The information, which was submitted at your hearing, revealed that you were receiving cash benefits from the WV Works program for children whom you were also receiving child support for. The child support was not redirected, as policy requires.

It is the decision of the State Hearing Officer to uphold the action of the Department to establish and collect a Cash Assistance claim in the amount of \$627.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Crossland, DHHR

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

____,

Claimant,

v.

Action Number: 06-BOR-1467

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on May 10, 2006 for _____. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on May 10, 2006 on a timely appeal, filed March 16, 2006.

It should be noted here that repayment and recoupment have been postponed pending a hearing decision.

II. PROGRAM PURPOSE:

The Program entitled WV Works is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

WV Works was created by Senate Bill 140, Article 9 of the West Virginia Code and the Temporary Assistance to needy Families Block Grant, Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The purpose of WV Works is to provide assistance to needy families with children so they can be cared for in their own home, reduce dependency by promoting job preparation, work and marriage. The goals of WV Works are to achieve more efficient and effective use of public assistance funds, reduce dependence on public programs by promoting self-sufficiency and structure the assistance programs to emphasize employment and personal responsibility.

III. PARTICIPANTS:

_____, claimant

Karen Crossland, DHHR Repayment Investigator

Presiding at the Hearing was Sharon K. Yoho, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Agency was correct in their actions to establish and collect an overpayment of WV Works, cash assistance.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 10.24, 13.9, 15.3 and 20.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Cash Assistance Claim Determination
- D-2 IV-A Overpayment Referral Form
- D-3 West Virginia Income Maintenance Manual Policy § 10.24
- D-4 West Virginia Income Maintenance Manual Policy § 13.9
- D-5 WV Works – Personal Responsibility Contract
- D-6 West Virginia Income Maintenance Manual Policy § 20.3

VII. FINDINGS OF FACT:

- 1) Ms. _____ had been receiving cash assistance in a Care Taker case in February 2004 for her nephew only. Her employer decreased her hours at her job in February 2004, which prompted her to reapply for cash assistance for her whole family.
- 2) The Department advised Ms. _____ that she would be required to redirect any child support received for children for whom she was receiving cash assistance. This was included in her Personal Responsibility Contract.
- 3) Exhibit (D-2) referral form reports non-redirectioned child support received by Ms. _____ in the amount of \$127.30 in April 2004, \$179.82 in May 2004 and \$356.61 in June 2004. Cash assistance was being received for her nephew and for her children in these months. The child support payments she was receiving was for her children.
- 4) Ms. _____ did not abide by the Personal Responsibility Contract developed by her caseworker therefore; the Repayment Investigator applied sanctions, which reduced the

claimant's cash assistance eligibility amounts. The Repayment Investigator then applied the child support amounts against the reduced amounts to determine the dollar amount of the claim.

- 5) The claimant received cash assistance in the amounts of \$390. in May 2004 and \$390. in June 2004. The claims and collection unit established an overpayment claim for \$627. for these two months. Exhibit (D-1) shows calculations of these claims. A 1/3 reduction of the WV Works check amount, due to the first sanction, was used for May's calculation and a 2/3 reduction, due to the second sanction, was used for June's calculation.
- 6) **WV Income Maintenance Manual § 10.24:**
When received ineligibly, the CSI is subject to repayment. Received ineligibly includes, but is not limited to, the client failed to report income and received a WV Works benefit ineligibly.
- 7) **WV Income Maintenance Manual § 13.9:**
Sanctions are applied to WV WORKS cases in the form of check reductions and, for the 3rd or subsequent offense, termination of benefits. The amount of the check reduction is a fixed amount and is determined as follows:
1st Offense = 1/3 reduction in the check amount, prior to recoupment, that the AG is currently eligible to receive, for 3 months
2nd Offense = 2/3 reduction in the check amount, prior to recoupment, that the AG is currently eligible to receive, for 3 months. If the case is in a 1/3 reduction when the 2nd sanction is applied, the 2/3 reduction is applied to the check amount the client is currently eligible to receive, prior to recoupment; it is not applied to the check amount which has already been reduced by 1/3.
- 8) **WV Income Maintenance Manual § 20.3**
Repayment is pursued for cash assistance overpayments made under the WV WORKS program. When an AG has received more cash assistance than it was entitled to receive, corrective action is taken by establishing a claim for the overpayment.
- 9) **WV Income Maintenance Manual § 15.3**
REDIRECTION OF CHILD SUPPORT PAYMENTS (WV WORKS)
All child support payments made on behalf of children who are recipients of WV WORKS must be redirected to Bureau for Child Support Enforcement (BCSE). The client must forward the payment to BCSE. Failure to do so will result in application of a sanction for WV WORKS for failure to cooperate with child support activities.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in Chapter 15.3 that child support received on behalf of children who are recipients of cash assistance must be redirected to BCSE.
- 2) Policy in Chapter 20.3 allows a claim to be established when an overpayment of cash assistance was received.

IX. DECISION:

It is the decision of this Hearing Officer that the claimant did receive Cash Benefits for \$627. which should not have been issued to her. I rule that the Agency is correct in the establishment of a claim and the pursuit of payment from the claimant. I **uphold** the Agency in their establishment of a Cash Assistance claim of \$627.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 5th Day of June, 2006.

Sharon K. Yoho
State Hearing Officer