



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
Post Office Box 2590  
Fairmont, WV 26555-2590

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

February 7, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 4, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for benefits through the WV WORKS Program.

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.

Eligibility for the WV WORKS Program is based on current policy and regulations. Some of these regulations state that eligibility and benefit levels are determined on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period and the number of members in the Assistance Group (AG). For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the AG. The AG is ineligible in any month that its non-excluded monthly gross income exceeds 100% of the Standard of Need. [West Virginia Income Maintenance Manual, Chapter 9.2, 10.3 and 10.24]

The information which was submitted at your hearing revealed that your gross monthly non-excluded income is in excess of the established standard for an Assistance Group of one (1). As a result, you are not eligible to receive benefits (cash assistance) through the WV WORKS Program.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your application for benefits through the WV WORKS Program.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Lauretta Sine, FSS, DHHR

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

\_\_\_\_\_,  
**Claimant,**

**Action Number: 05-BOR-6079**

**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 February 7, 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 January 4, 2006 on a timely appeal, filed June 15, 2006.

**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  
Lauretta Sine, FSS, DHHR  
Melissa Steele, FSS, DHHR

Presiding at the Hearing was Thomas E. Arnett, 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 Department was correct in their action to deny the Claimant's application for benefits through the WV WORKS Program based on excessive non-excluded gross monthly income.

### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapter 9.2, 10.24, 10.3 and Appendix A of Chapter 10.

### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

#### **Department's Exhibits:**

- D-1 Notice of Decision dated 6/13/05
- D-2 WVIMM, Chapter 9.21
- D-3 WVIMM, Chapter 10.3
- D-4 WVIMM, Chapter 10, Appendix A

### **VII. FINDINGS OF FACT:**

- 1) On June 9, 2005, the Claimant completed an application for WV WORKS (cash assistance). The application was for a 2-person assistance group, hereinafter AG, the Claimant and his son.
- 2) On June 13, 2005, the Claimant was notified via a Notice of Decision (D-1) that his application for WV WORKS was denied. This notice states in pertinent part:

ACTION: Your 6/9/05 application for WV WORKS has been DENIED.

REASON: Income is too much for you to receive benefits.

- 3) The Claimant's verified monthly income is \$447 in RSDI (Retirement, Survivors, Disability Insurance) benefits, and \$152 of SSI (Supplemental Security Income) benefits. As a matter of record, the Claimant agreed that the income presented by the Department was accurate.

- 4) The Department contends that the Claimant and his son must be included in the AG, and while the Claimant's SSI income is not counted for WV WORKS cash assistance, the Claimant's RSDI income must be counted in full and compared to the 100% Standard of Need for an AG of 2. The Department presented exhibit D-4 and stated that the non-excluded gross unearned income for an AG of two (2) (Standard of Need) cannot exceed \$301.
- 5) The Claimant contends that the Agency is to treat all persons alike and that he knows other disabled individuals who receive income equal to his and they are eligible to receive WV WORKS cash assistance for their children. He believes that he is being treated unfairly by the Department.
- 6) West Virginia Income Maintenance Manual, Chapter 9.21.A.1, provides information about who must be included in the WV WORKS Assistance Group.

**NOTE:** Although the individuals listed below are required to be included in the WV WORKS AG, if otherwise eligible, an SSI recipient, age 18 or over, cannot be included in the AG. The Claimant, due to receipt of SSI, cannot be included in the AG.

Policy found in this section goes on to state that all minor, dependent, blood-related and adoptive siblings who live in the same household and are otherwise eligible, for this purpose only, otherwise eligible means living with a specified relative, and the parents(s) of the child(ren) identified above when the parents(s) lives with the child.

- 7) West Virginia Income Maintenance Manual, Chapter 9.21.B, THE INCOME GROUP, states that the non-excluded income of all AG members is counted. The non-excluded income of the ineligible and disqualified individuals who would normally be required to be included in the AG must be counted when determining eligibility, but disqualified and excluded SSI individuals are not counted in the Needs Group (Emphasis added).
- 8) West Virginia Income Maintenance Manual, Chapter 9.21.C, THE NEEDS GROUP, states that the countable income is compared to the income limits for the number in the AG to determine eligibility and the amount of the benefit.
- 9) West Virginia Income Maintenance Manual, Chapter 10.3.MMM., reveals that RSDI (Retirement Survivors, Disability Insurance) is identified as unearned income. Policy goes on state "Count the amount of the client's entitlement. This includes any amount deducted for Medicare, if applicable."
- 10) West Virginia Income Maintenance Manual, Chapter 10.3.VVV., reveals that SSI (Supplemental Security Income) does not count as income in the WV WORKS Program.

- 11) West Virginia Income Maintenance Manual, Chapter 10.24.B (Income deductions and disregards) states that the only unearned income disregard or deduction is the first \$50 of redirected child support. The Claimant's unearned income does not qualify for a deduction.

- 12) West Virginia Income Maintenance Manual, Chapter 10.24.C provides the following directions for determining eligibility and benefit levels:

Determining Eligibility - 100% Of Need Test - The AG is ineligible in any month that its non-excluded monthly gross income exceeds 100% of the Standard of Need. The test is applied as follows:

Step 1: Add together the total non-excluded gross earned income, the gross profit from self-employment and the non-excluded gross unearned income of the AG and any disqualified person(s).

Step 2: Determine the 100% of Need amount in Appendix A of this Chapter for the appropriate AG size, excluding the disqualified person(s).

Step 3: If the amount in Step 1 is greater than the amount in Step 2, the AG is ineligible.

Step 4: If the amount in Step 1 is equal to or less than the amount in Step 2, the AG is eligible for further determinations.

## **VIII. CONCLUSIONS OF LAW:**

- 1) The Department has incorrectly determined the number in the WV WORKS AG as the Claimant cannot be included due to receipt of SSI. Policy fails to specify that only full SSI recipients cannot be included. Because the Claimant receives a partial SSI benefit amount, he cannot be included in the AG.
- 2) Policy, however, goes on to say – “The non-excluded income of the ineligible and disqualified individuals who would normally be required to be included in the AG must be counted when determining eligibility...” This includes the parent(s) and all minor, dependent, blood-related and adoptive children who live in the same household. As a result, the Claimant's non-excluded RSDI income of \$447 is counted when determining eligibility. This same policy goes on to say, “...but disqualified and excluded SSI individuals are not counted in the Needs Group.” Therefore, the Claimant's non-excluded income of \$447 is then compared to the 100 % Standard of Need for an AG of one (1).
- 3) The Claimant is not entitled to any unearned income deductions and his RSDI entitlement of \$447 per month is counted in full for the WV WORKS Program.

- 4) Policy states that the AG is ineligible in any month that its non-excluded monthly gross income exceeds 100% of the Standard of Need. Appendix A of Chapter 10 reveals that the established standard (100% of the Standard of Need) for an AG of one (1) is \$262.
- 5) Whereas the Claimant's non-excluded monthly gross income (\$447) exceeds the established standard for an AG of one (\$262), the Department was correct in denying the Claimant's application for WV WORKS cash assistance based on excessive income.

**IX. DECISION:**

After reviewing the information presented during the hearing, and the applicable policy and regulations, I am ruling to **uphold** the action of the Agency in denying your application for benefits through the WV WORKS Program.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 7th Day of February, 2006.**

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**Thomas E. Arnett**  
**State Hearing Officer**