



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

March 21, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 5, 2006. Your hearing request was based on the Department of Health and Human Resources' action to terminate your benefits under 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 as follows: The following situations result in ineligibility for the individual who meets at least one of the following criteria: The child (ren) of a minor parent when the minor parent is a recipient of federal foster care payment. (Section 9.21A #3 of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that you were receiving a WV WORKS check for your great grandchild. Your granddaughter (the child's mother), age 17, is a recipient of foster care.

It is the decision of the State Hearing Officer to uphold the action of the Department to terminate your benefits under the WV WORKS Program.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

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

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

_____,
Claimant,

Action Number: 05-BOR-6899

**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 January 5, 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 5, 2006 on a timely appeal, filed November 7, 2005.

It should be noted here that the claimant's benefits have been terminated. The claimant did not wish to receive continued benefits pending the 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

_____, Claimant's Daughter

Marcie Waselchalk, Department Hearing Representative

Presiding at the Hearing was Margaret M. Mann, 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 the decision to terminate the claimant's benefits for her great grandchild as the child's mother receives foster care.

V. APPLICABLE POLICY:

Section 9.21A #3 of the West Virginia Income Maintenance Manual

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Hearing Request dated 11/07/05

D-2 Form IG-BR-29 Hearing/Grievance Record Information

D-3 Department's Summary

D-4 Closure notice dated 11/04/05

D-5 Section 9.21 #3 of the West Virginia Income Maintenance Manual

VII. FINDINGS OF FACT:

- 1) The claimant was a recipient of WV WORKS for her great grandchild.
- 2) The child's mother, _____, age 17, is also in the home. The claimant receives a foster care payment for _____ in the amount of \$600 per month.
- 3) A closure notice was sent to the claimant dated 11/04/05. It reads in part: Your WV WORKS will stop. You will not receive this benefit after November 2005. Reason: No one for whom benefits were requested meets all the program requirements for this category of assistance. _____ is covered by Foster Care. The claimant requested a hearing on this issue.
- 4) There are three in the household. The baby is three years old. They cannot collect child support from the father.

- 5) Section 9.21A #3 of the West Virginia Income Maintenance Manual reads in part that the following situations result in ineligibility for the individual who meets at least one of the following criteria. However, when all members of the AG meet any of the criteria listed below, the entire case is ineligible. In addition, when all otherwise eligible children meet any of the criteria listed below, except receipt of foster care, adoption assistance, or SSI benefits dependent child is 18 or over, the AG is ineligible. – The child (ren) of a minor parent when the minor parent is a recipient of federal foster care payment. **Note:** The caretaker relative may receive WV WORKS when there are no children in the AG if all the children are ineligible for WV WORKS only because they receive foster care payments.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that the child (ren) of a minor parent when the minor parent is a recipient of federal foster care payment cannot be included in the AG.
- 2) The claimant was receiving a WV WORKS check for her great grandchild.
- 3) The child's mother, age 17, is a recipient of a foster care payment.

IX. DECISION:

It is the finding of the State Hearing Officer that the claimant is not eligible to receive a WV WORKS payment for her great grandchild as the child's mother is a recipient of a foster care payment. The Department is upheld in the decision to terminate the claimant's benefits under 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 21st Day of March, 2006.

**Margaret M. Mann
State Hearing Officer**