



**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**

February 3, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 1, 2006. Your hearing request was based on the Department of Health and Human Resources' decision to close your WV Works case due to excessive income received by your child's father who is residing in your home.

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: 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. (WV Income Maintenance Manual §9.21 A-3.)

The information, which was submitted at your hearing, revealed that the father of your newly born child was residing in your household and his income was in excess of the grant amount.

It is the decision of the State Hearing Officer to uphold the action of the Department to close your WV Works case due to excessive countable income.

Sincerely,

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

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

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

Claimant,

Action Number: 06-BOR-921

**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 1, 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 February 1, 2006 on a timely appeal, filed December 27, 2005.

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

Pamela Mills, Family Support Worker

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 close the WV Works, cash assistance case, due to excessive countable income.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 9.21

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Notice of proposed closure dated December 20, 2005

D-2 WV Income Maintenance Manual §9.21

VII. FINDINGS OF FACT:

- 1) Ms. _____ has been residing with her fiancé, _____, for some time. The Department had his earned income coded in the computer system as being income from a disqualified individual due to a drug felony violation. Ms. _____ was receiving WV Works cash benefits for herself and her children of previous relationships.
- 2) In mid December, Ms. _____ gave birth to a new baby who was fathered by Mr. _____.
- 3) The Department evaluated the new status of the case on December 20, 2005 and determined that Mr. _____'s income must be counted since he is now the father of one of Ms. _____'s children.
- 4) Mr. _____'s income as coded in the computer system was \$1978. gross monthly. After an earned income disregard was subtracted, the countable income was \$1186.80, which is in excess of the \$460. grant amount.

- 5) The Department sent a notice of closure to Ms. _____ on December 20, 2005. The notice advised that the income was too much for the household to be eligible for cash assistance.
- 6) The claimant requested a hearing on December 27, 2005 and benefits were continued.
- 7) The claimant testified that she was under the assumption that her benefits would continue until her doctor released her to return to work. She was not aware of the policy that would automatically count her newborn baby's father's income.
- 8) **WV Income Maintenance Manual § 9.21 A-3:**
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.
- 9) **WV Income Maintenance Manual § 9.21 A-1:**
WV Works Eligibility Determination Groups
 1. Who Must Be included:
The parents of the children identified above when the parent lives with the children.
- 10) **WV Income Maintenance Manual § 9.21 A-3:**
 3. Who Cannot Be Included:
An individual convicted of a felony under federal or state law when the offense involves the possession, use or distribution of a controlled substance, as defined in Section 102(6) of the Controlled Substance Act and when the offense occurred on or after 8/23/96.
- 11) **WV Income Maintenance Manual § 9.21 C:**
Countable income is compared to the income limits for the number in the AG to determine eligibility and the amount of the benefit.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in Chapter § 9.21 that the income of a parent who is residing in a household with his child or children must be counted to determine eligibility for cash benefits for the benefit group. The Department is to compare the countable income to the income limits for the number in the assistance group.
- 2) Mr. _____ is the father of the claimant's newborn child, and his income must be counted to determine eligibility for the WV Works program. His reported income at the time of the proposed closure was clearly in excess of the grant amount.

IX. DECISION:

It is the decision of this Hearing Officer that the Department was correct in their proposal to discontinue cash benefits after the December birth of Mr. _____ and Ms. _____'s child. I **uphold** the action of the Department to close the claimant's WV Works case.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 3rd Day of February, 2006.

**Sharon K. Yoho
State Hearing Officer**