



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

October 2, 2007

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 20, 2007. Your hearing request was based on the Department of Health and Human Resources' denial of your West Virginia Works application.

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 West Virginia Works Program is based on current policy and regulations. In regard to non-duplication of benefits, regulations state that no person can receive West Virginia Works in more than one West Virginia Works Assistance Group in the same month. (West Virginia Income Maintenance Manual Section 8.5C)

Testimony reveals that your son received West Virginia Works in his grandmother's case in August and September 2007, therefore you are prohibited from receiving duplicate benefits for the child during those months.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your West Virginia Works application.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Susan Ellison, FSS, DHHR

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 07-BOR-2040**

**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 October 2, 2007 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 September 20, 2007 on a timely appeal filed August 30, 2007.

**II. PROGRAM PURPOSE:**

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

West Virginia 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  
Susan Ellison, Family Support Specialist, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 denying the Claimant's West Virginia Works application based on non-duplication of benefits.

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

West Virginia Income Maintenance Manual Section 8.5C

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

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

- D-1 Rapids case comments for the period of July 9, 2007 to September 17, 2007
- D-2 Fair hearing information and Notice of Decision
- D-3 West Virginia Income Maintenance Manual Sections 1.25, 6.3, 8.6, 9.21, 10.24 and 15.2
- D-4 Notarized statement of \_\_\_\_\_ dated August 2, 2007, West Virginia Income Maintenance Manual Section 4.2, Rapids case comments of August 7, 2007, and Order Denying Appointment of Minor Guardian

#### **Claimant's Exhibits:**

- C-1 Notarized statement of \_\_\_\_\_ dated May 18, 2007

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

- 1) The Claimant applied for West Virginia Works on August 28, 2007. At the time of the application, the Claimant's son \_\_\_\_\_ had been returned to him after the child's maternal grandmother's Petition for Guardianship was denied (D-4). The child had been included in his grandmother's West Virginia Works case in August 2007 and adverse action requirements prohibited his removal from that case for September 2007. Because the child was included in West Virginia Works benefits in another case in August and September 2007, the Claimant's application was denied.
- 2) The Claimant was sent a Notice of Decision on September 13, 2007 (D-2).

- 3) The Claimant testified that he originally had temporary custody of \_\_\_\_\_ and the child's two half-siblings following the incarceration of the children's mother. A notarized statement dated May 18, 2007 (C-1) confirms the temporary guardianship agreement. In August 2007, the children's maternal grandmother took the children on vacation and then refused to return them to the Claimant. The children's mother had signed a new agreement (D-4) on August 2, 2007- of which the Claimant stated he was unaware- giving temporary custody of the children to their grandmother. The grandmother applied for West Virginia Works benefits for the children on August 7, 2007 and for court-ordered guardianship. However, a [REDACTED] County Family Court Judge ordered on August 17, 2007 that \_\_\_\_\_ be returned to the Claimant. The Claimant testified that \_\_\_\_\_ was in his grandmother's care for less than two weeks as the court promptly placed the child back into his custody, therefore he believes he is entitled to West Virginia Works benefits for the child.
- 4) West Virginia Income Maintenance Manual Section 8.5 C states:

No person may be included in more than one WV WORKS AG  
for the same month.

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

- 1) Policy stipulates that no person may be included in more than one West Virginia Works Assistance Group for the same month to prevent a duplication of benefits.
- 2) While the Claimant indicated his son was out of his household for less than two weeks – albeit without his consent- the Department acted correctly in denying the Claimant's West Virginia Works application since his child received benefits in another case for August and September 2007.

#### **IX. DECISION:**

Based on information presented during the hearing and applicable policy, it is the decision of the State Hearing Officer to **uphold** the Agency's action to deny West Virginia Works benefits.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 2nd Day of October, 2007.**

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**Pamela L. Hinzman  
State Hearing Officer**