



**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

October 26, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 25, 2007. Your hearing request was based on the Department of Health and Human Resources' action to apply a 45-day waiting period to your beginning date of eligibility 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 once eligibility is established, i.e., the date all eligibility requirements are met, the application is approved. If the first benefits must be prorated, they are prorated from the date of application. Among the circumstances that can affect the beginning date of eligibility is when a parent, non-recipient Work-Eligible Individual, or other caretaker relative included in the payment quits or refuses employment or training for employment, without good cause, in the 30-day period prior to the date of application. When this occurs, the AG is ineligible until 45 days after the employment or training is no longer available. Benefits may not be issued for any part of the 45-day waiting period. {West Virginia Income Maintenance Manual, Chapter 1.25.M}

The information submitted at your hearing revealed that you quit employment within the 30-day period prior to your application for WV WORKS benefits without good cause.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in applying the 45-day waiting period to your eligibility for WV WORKS benefits. However, you are entitled to October 2007 WV WORKS benefits prorated effective October 17, 2007. See section VIII & IX for an explanation.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Mike Holland, FSS, DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-2207

**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 26, 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 October 25, 2007 on a timely appeal, filed September 20, 2007.

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
Mike Holland, 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 its action to deny the Claimant's application for benefits through the WV WORKS Program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 1.25

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual, Chapter 1.25 M
- D-2 Notice of Decision dated 9/17/07.
- D-3 Employment Verification Form completed on 9/11/07.

VII. FINDINGS OF FACT:

- 1) On September 10, 2007 the Claimant completed an application for cash assistance through the WV WORKS Program.
- 2) On or about September 17, 2007 the Claimant was notified via a Notice of Decision (Exhibit D-2) that her application was denied. This notice states, in pertinent part:

ACTION: Your 9/10/07 application for WV WORKS has been DENIED.

REASON: The caretaker has quit or refused a job without good cause.
No one is eligible for WV WORKS.

- 3) The Department presented Exhibit D-3, Employment Verification Form completed by Tim Wells, Human Resources Representative from [REDACTED] on September 11, 2007. This document notes that the Claimant's last day of employment was September 1, 2007 and indicates the reason the Claimant is no longer employed is because she quit.

- 4) The Department's Family Support Specialist testified that he staffed the case with his supervisor and good cause for the Claimant's voluntary quit could not be established. The Department noted that although the Claimant cited medical reasons for quitting her job, she failed to produce medical documentation from a physician verifying her condition and/or that it would render her unable to continue working at [REDACTED]
- 5) The Claimant reported that she was experience pain and discomfort from a hemorrhoid that she believes was caused from heavy lifting at [REDACTED]. She stated that she didn't think about going to the doctor until several days after she quit her job and was feeling better. She stated that she didn't think there would be any benefit to seeing a doctor at that point.
- 6) West Virginia Income Maintenance Manual, Chapter 1.25 M (BEGINNING DATE OF ELIGIBILITY) states:

Once eligibility is established, i.e., the date all eligibility requirements are met, the application is approved. If the first benefits must be prorated, they are prorated from the date of application. See item C above. There are other circumstances which also affect the beginning date of eligibility.

- When a parent, non-recipient Work-Eligible Individual, or other caretaker relative included in the payment quits or refuses employment or training for employment, without good cause, in the 30-day period prior to the date of application, the AG (Assistance Group) is ineligible until 45 days after the employment or training is no longer available. Benefits may not be issued for any part of the 45-day waiting period. See Chapter 13 for the determination of good cause.

NOTE: This applies to full-time or part-time employment.

NOTE: The 45-day waiting period applies only to AG members and nonrecipient Work-Eligible Individuals at application.

- 7) West Virginia Income Maintenance Manual, Chapter 13.10 provides good cause criteria when an individual quits or refuses employment and states:

If a parent or a non-parent caretaker relative included in the payment or a non-recipient Work-Eligible Individual quits or refuses employment within the 30-day period prior to the date of application, for a reason other than school enrollment, or when the client fails or refuses to meet his work requirement and/or adhere to his PRC requirements, the Worker must determine the reason for such failure or refusal. Appropriate documentation must be provided (Emphasis added) and the circumstances must be recorded in CMIC and CMCC where applicable.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that when a parent, non-recipient Work-Eligible Individual, or other caretaker relative included in the payment quits or refuses employment or training for employment, without good cause, in the 30-day period prior to the date of application, the AG (Assistance Group) is ineligible until 45 days after the employment or training is no longer available. Good cause can be granted, however, only with appropriate documentation.
- 2) The evidence reveals that the Claimant quit her job within 30-days of her application for WV WORKS (last day of employment was September 1, 2007) and while she cited a medical problem as the reason for quitting, she failed to provide documentation to verify her condition and/or confirm that it would have rendered her unable to perform job related duties.
- 3) Based on the evidence, the Department was correct in determining that the Claimant was subject to a 45-day waiting period (beginning September 2, 2007 - the date employment is no longer available). It should be noted, however, that the Department's notice should have reflected that the Claimant was approved for WV WORKS benefits effective October 17, 2007. Therefore, the Department is directed to issue October 2007 WV WORKS benefits prorated effective October 17, 2007. Eligibility for continued WV WORKS benefits (effective November 2007) shall be reviewed in accordance with existing WV WORKS policy.

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 applying the 45-day waiting period to the Claimant's WV WORKS eligibility. HOWEVER, because the Claimant was determined to be otherwise eligible at the time of application, the Claimant is entitled to October 2007 benefits prorated from the date of eligibility (October 17, 2007). The Department is therefore directed to issue the Claimant October 2007 WV WORKS benefits prorated effective October 17, 2007.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 26th Day of October, 2007.

**Thomas E. Arnett
State Hearing Officer**