



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 970
Danville, WV 25508

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

July 8, 2008



Dear Mr. [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 24, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to establish a WV Works Cash Assistance claim against your household.

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. Timely Reporting – For WV Works case, all changes in a client's circumstances must be reported immediately. In addition, new earned income must be reported within 10 days of the date new employment begins to avoid certain penalties. (WV Income Maintenance Manual Chapter 2.17.B.2.)

The information, which was submitted at your hearing, revealed that you failed to report the adoption of your children timely, which resulted in an overpayment of WV Works Cash Assistance.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to establish and collect a WV Works Cash Assistance claim for the month of February 2008.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Brian Shreve, [REDACTED] DHHR

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

Claimant,

v.

Action Number: 08 – BOR - 1368

**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 June 24, 2008 for [REDACTED]. 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 June 24, 2008 on a timely appeal, filed May 5, 2008.

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

Brian Shreve, DHHR Repayment Investigator

Presiding at the Hearing was Cheryl Henson, 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 establish and collect an overpayment of WV Works Cash Assistance.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 2.17.b.2, and 20.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case Comments dated January 22, 2008
- D-2 Final Order from Circuit Court of ██████████ County, WV signed January 7, 2008
- D-3 WV Income Maintenance Manual Section 2.17.B.2
- D-4 Rapids Reference Table Display Screen
- D-5 EBT Administration System Information
- D-6 Cash Assistance Claim Determination Forms
- D-7 WV Income Maintenance Manual Section 20.3
- D-8 Notification letter dated April 25, 2008

Claimant Exhibits:

- C-1 Power of Attorney form signed June 24, 2008

VII. FINDINGS OF FACT:

- 1) During the month of January 2008, the Claimant was receiving WV Works Cash Assistance benefits in the amount of \$301.00 monthly as a "Caretaker Relative" case. On January 22, 2008 she called the Department and reported that on January 7, 2008 the Judge signed adoption papers (D-2) for the children in her care and they were now considered legally adopted.
- 2) The Department presented evidence to show that the adverse action deadline – last date to make adverse changes to a case – was January 17, 2008 (D-4). They indicated that

as a result, the change could not be made until effective March 2008. The Department contends that the Claimant was obligated to report this change immediately according to policy, and failed to do so. This resulted in an overpayment for February 2008. The Department is considering this claim a “client” error due to the Claimant failing to report timely.

- 3) The Claimant’s husband represented her at the hearing and presented written paperwork allowing him to act on her behalf. (C-1) The Claimant’s husband stated that they received the adoption papers on the same day the Judge signed them, that being January 7, 2008. He stated that when they reported this change on January 22, 2008, the Department had eight (8) days and should have stopped the February check if they were not eligible. No evidence was provided to show the Department attempted to explain the adverse action deadline policy and give the Claimant the opportunity to sign a waiver, allowing the action to take place timely. He states the children did not start getting Social Security benefits on his record until March 2008 and should have still been eligible in February 2008.

- 4) **WV Income Maintenance Manual § 20.3 states in part:**

When an AG has received more cash assistance than it was entitled to receive, corrective action is taken by establishing a claim for the overpayment. The claim is the difference between the amount of benefits received and the amount of benefits to which the AG was entitled.

- 5) **WV Income Maintenance Manual § 2.17.B.2 states in part:**

REPORTING REQUIREMENTS
Timely Reporting

For WV Works case, all changes in a client’s circumstances must be reported immediately. In addition, new earned income must be reported within 10 days of the date new employment begins to avoid certain penalties.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in that for WV Works Cash Assistance, the Claimant was obligated to report the change immediately, and she failed to do so. Policy also stipulates that when an assistance group has received more cash assistance than it was entitled to receive, corrective action is to be taken to establish a claim for overpayment.
- 2) The Department agrees that the overpayment will be considered an “agency” error, since the Department worker failed to explain the adverse action policy and the Claimant did not have the opportunity to sign a waiver allowing the action to take place timely, thereby avoiding an overpayment.

- 3) It is clear that an overpayment has occurred for the month of February 2008 in the amount of \$301.00. The establishment of the overpayment claim is upheld.

IX. DECISION:

It is the decision of this Hearing Officer that the Department was correct in their establishment of a WV Works Cash Assistance Claim in the amount of \$301.00 for the month of February 2008. However, the claim will be listed as an “agency” error. I **uphold** the Department in the establishment of this claim.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant’s Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of July, 2008

**Cheryl Henson
State Hearing Officer**