

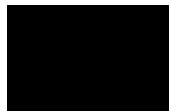


State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

July 22, 2008



Dear Ms. 

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 16, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to establish a 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. Some of these regulations state as follows: When an assistance group has been issued more Cash Assistance than it was entitled to receive, corrective action is taken by establishing a claim. (WV Income Maintenance Manual 20.3). A The deprivation factor must be continued absence of parents when a child is living with a relative who is not a parent. (WV Income Maintenance Manual 15.2).

The information, which was submitted at your hearing, revealed that you were no longer eligible for the cash assistance you were receiving for your grandchild once his father moved into the home.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to establish and collect a Cash Assistance claim for the period of October 2007 thru April 2008.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Karen Crossland, Repayment Investigator

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

██████████
Claimant,

v.

Action Number: 08-BOR-1536

**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 July 16, 2008 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 July 16, 2008 on a timely appeal, filed June 9, 2008.

It should be noted here that repayment and recoupment have been postponed pending a 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

Karen Crossland, DHHR Repayment Investigator

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 establish and collect an overpayment of WV Works, cash assistance.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy §2.17, 15.2 and 20.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Cash Assistance Claim Determination
- D-2 West Virginia Income Maintenance Manual Policy § 1.2
- D-3 West Virginia Income Maintenance Manual Policy § 2.2
- D-4 West Virginia Income Maintenance Manual Policy § 20.1
- D-5 Rights and Responsibilities dated July 5, 2007

VII. FINDINGS OF FACT:

- 1) The claimant was receiving WV WORKS cash assistance for her grandson in September 2007 due to the deprivation factor of both parents being absent from the home. When the child's father moved into the home following an incarceration period, the claimant did not notify the Department that he had moved into her home.
- 2) The Rights and Responsibility statements, which the claimant read and signed on July 5, 2007, included the statement: "I agree to notify DHHR of the following changes within 10 days if: F) "Anyone moves into/out of my household."
- 3) In April 2008, the Department became aware that the child's father had moved into the home. The caseworker closed the cash assistance case based on this information. No benefits were received after April 2008. The caseworker referred the case for repayment.

- 4) The Claims and Collection unit established a claim for the months of October 2007 thru April 2008 as the child was no longer deprived of parental support due to absence. The claim amount for this period is \$1,834.
- 5) The claimant testified that she did not realize that she needed to report that her son, the child's father, had moved into her home. She states that he had been released from jail and had not been working.
- 6) **WV Income Maintenance Manual § 2.17.**
 - B. REPORTING REQUIREMENTS
 1. What Must Be Reported
All changes in income, assets, household composition and other circumstances must be reported.
 2. TIMELY REPORTING
For WV WORKS cases, all changes in a client's circumstances must be reported immediately.
- 7) **WV Income Maintenance Manual § 15.2**
 - C. The dependent child must be deprived of parental support and care and the cause of this deprivation must be identified as described in the following sections.
 1. Relationship of Deprivation Factor to Living Arrangements
 - c. Child Lives With A Relative(s) Who Is Not A Parent
The deprivation factor must be continued absence of a parent(s) unless both parents are dead.
- 8) **WV Income Maintenance Manual § 20.3**
Repayment is pursued for cash assistance overpayments made under the WV WORKS program. 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.

VIII. CONCLUSIONS OF LAW:

- 1) Policy §15.2 provides that for eligibility for cash assistance, a child living with a relative who is not a parent must be deprived of parental support due to continued absence of parents.
- 2) Policy §2.17 states that for WV WORKS, the recipient must report all changes in his circumstances immediately. This policy identifies reportable changes as income, assets and household composition. This claimant failed to report changes in her household composition. She had signed her rights and responsibility statements indicating that she understood her obligation to report when someone moves into her home.
- 3) The Claimant was not eligible for the benefits received while the father of the child resided in the home. Had she reported the father's return to the home, she would have been instructed to tell him to come to the Department to apply for benefits for his son. Only at that time could the Department determine if he would have been eligible to receive benefits for his son.

IX. DECISION:

It is the decision of this Hearing Officer that the claimant did receive Cash Benefits for which she was not entitled. I rule to **uphold** the Department in their establishment of the Cash Assistance claim and the collection of the overpayment.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of July, 2008.

**Sharon K. Yoho
State Hearing Officer**