



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 W Washington St.
Charleston, W V, 25313
304-746-2360 ext 2227

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 18, 2008



Dear [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 19, 2008. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate the Caretaker Relative Cash Assistance Check for the 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 the West Virginia Works Program is based on current policy and regulations. Some of these regulations state as follows: 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 Section 15.2).

The information submitted at your hearing revealed that you were no longer eligible for the cash assistance you were receiving for your grandchildren while their mother resides in the home.

It is the decision of the State Hearings Officer to uphold the proposal of the Department to terminate the Caretaker Relative Cash Assistance Check.

Sincerely,

Jennifer Butcher
State Hearings Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Alice Kayrouz, FSS

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

██████████
Claimant,

v.

Action Number: 08 - BOR-1663

**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 November 18, 2008 for ██████████. This hearing was held in accordance with the provisions found in the West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 700. This fair hearing was convened on August 19, 2008 on a timely appeal, filed May 21, 2008.

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.

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
witness for Claimant
Alice Kayrouz, Department Of Health and Human Resources, Family Support Specialist
Tammy Drummheller, Front End Fraud Unit

Presiding at the Hearing was Jennifer Butcher, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether or not the agency was correct in their actions to close the Caretaker Relative Assistant Check.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 9.21 A.1.and 9.21 A.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification letter to Claimant dated April 14, 2008
- D-2 West Virginia Income Maintenance Manual Section 9.21. A. 1.
- D-3 West Virginia Income Maintenance Manual Section 9.21. A. 2
- D-4 Verification of three types of permanent residency

VII. FINDINGS OF FACT:

- 1) The Claimant had been receiving WV WORKS cash assistance for her grandchildren since June, 2005, with a deprivation factor of parents being absent from the home.
- 2) The West Virginia Works Worker (hereinafter known as WV Works Worker) received an alert from the Bureau of Child Support Enforcement that the children's mother ██████████ was living in the home of the Claimant along with her children. The WV Works Worker contacted the Claimant to verify the residence of the mother of the children. The Claimant reported ██████████_uses ██████████ ██████████ as her primary mailing address, but she does not live at that address. Claimant also stated she had asked her daughter many times to change her address without success.
- 3) The Front End Fraud Unit (hereinafter known as FEFU) completed an investigation, which included a neighborhood check as well as circumstantial evidence from Bureau of Child Support Enforcement, ██████████ Employment check stubs and Department of Motor Vehicles License Division all giving her residential address as ██████████ ██████████ ██████████.

- 4) The Claimant stated Child Protective Services had placed [REDACTED] children with her because [REDACTED] did not have a stable home environment for the children.
- 5) The Claimant testified that all of her other children use her address as their primary mailing address, but they are not living with her.
- 6) The Claimant also stated [REDACTED] was not welcome in her home because she had stolen things from her in the past and she cannot be trusted.
- 7) The Claimant also remarked she had not seen [REDACTED] for a while; she did not know her address; and she did not know how to get in touch with her. Then the Claimant contradicted herself and stated, she comes to see her children for a couple of hours in the morning or evening and she drops off the baby on her way to work, and that [REDACTED] sometimes comes in for coffee and to use the phone, but she does not live with her, "she is staying with her boyfriend."
- 8) West Virginia Income Maintenance Manual Section 9.21

A. The Assistance Group (AG)

1. Who Must Be Included

The following individuals are required to be included:

All minor, dependent, blood-related and adoptive siblings who live in the same household and are otherwise eligible. For this purpose only, otherwise eligible means living with a specified relative.

The parent(s) of the child(ren) identified above when the parent(s) lives with the child(ren), unless they fall under any of the categories of who may not be included listed in Item 3 of this section.

Parents who attend school, work, or are looking for work away from home, including those who work out of state, must be included, unless there is a legal separation

- 9) West Virginia Income Maintenance Manual Section 9.21.2

2. Who May Choose To Be Included

The following individuals may choose to be included:

Caretaker relatives, who are not natural or adoptive parents, and stepparents when the parent is not in the home, may choose to be included or excluded from the AG. If a caretaker relative chooses to be included, the following individuals must also be included:

VIII. CONCLUSIONS OF LAW:

- 1) According to policy section 9.21.A if the parent is living in the household with the minor children, they must be included in the Assistance Group (AG).
- 2) The Claimant lacks credibility in her testimony by contradicting herself each time she tried to explain why her daughter was not living in the home.
- 3) The Claimant could not provide convincing testimony to prove the [REDACTED] does not live in her home along with her children.

IX. DECISION:

It is the decision of this Hearing Officer that the Claimant did receive a Caretaker Relative Cash Assistance Check for which she was not entitled. I rule to **uphold** the Department in their proposal to terminate the Caretaker Relative Cash Assistance Check

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th Day of November, 2008.

Jennifer Butcher
State Hearing Officer