

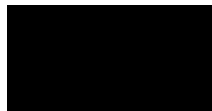


State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

February 28, 2008



Dear Ms. [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 19, 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 20.2). Refusal or failure, without good cause, to sign either part of the PRC form results in ineligibility for the entire AG. (WV Income Maintenance 1.25).

The information, which was submitted at your hearing, revealed that you were financial entitled to the cash benefits and you had good cause for not completing a personal responsibility contract (PRC).

It is the decision of the State Hearing Officer to **reverse** the action of the Department to establish and collect a Cash Assistance claim for the period of December thru March 2007.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Debbie Roberts, Repayment Investigator

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

██████████
Claimant,

v.

Action Number: 07-BOR-1801

**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 February 19, 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 February 19, 2008 on a timely appeal, filed July 24, 2007.

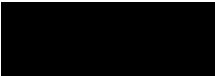
It should be noted here that repayment and recoupment have been postponed pending a hearing decision.

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
claimant's husband

Brian Shreve, 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 §1.25, 20.3 and 24.4.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Benefit Recovery Referral
- D-2 Application for benefits dated December 18, 2006
- D-3 Rights and Responsibilities dated December 18, 2006
- D-4 WVW Scheduling notice dated February 7, 2007
- D-5 WVW Scheduling notice dated February 12, 2007
- D-6 Closure letter dated March 6, 2007
- D-7 Personal Responsibility Contract (PRC) signed April 2, 2007
- D-8 West Virginia Income Maintenance Manual Policy § 1.25
- D-9 West Virginia Income Maintenance Manual Policy § 20.3 A-D
- D-10 Cash Assistance Claim established May 22, 2007
- D-11 West Virginia Income Maintenance Manual Policy § 20.3 F
- D-12 Notice of Cash Assistance claim dated May 23, 2007

VII. FINDINGS OF FACT:

- 1) The claimant and her husband made application for WV Works cash assistance on December 18, 2007. Both signed the application and their Rights & Responsibility statements included with the application. The worker also signed the application on this same date. The claimant and her family were residing in a homeless shelter at the time of application.
- 2) The Rights and Responsibility statements included the statement: "I understand that all adults included in the WV WORKS payment must sign the Personal Responsibility

Contract (PRC) as a condition of eligibility. Failure to sign the PRC will result in not receiving cash assistance.” Indications are that the worker did not ask the claimant and her husband to sign a PRC on December 18th; however, he/she approved the application and generated an approval letter mailed to the homeless shelter address.

- 3) The Department was aware that the family was to move into an apartment on [REDACTED] [REDACTED]. The claimant’s testify that they advised the Department that they would move into the apartment in March. On February 7, 2007, the Department sent a letter (exhibit D-4) to this new address advising of a scheduled appointment for February 15, 2007 to update their PRC. When the clients did not show up for this appointment, the Department issued another appointment letter (exhibit D-5) to update the PRC. This appointment was for February 26, 2007 and again the clients did not show for the appointment. The Department then, on March 5, 2007 referred the case to the repayment unit advising them that the clients were mistakenly issued cash benefits December thru March due to the absence of a PRC and that they had refused to come in to sign one.
- 4) On March 6, 2007, the Department mailed a closure letter to the [REDACTED] [REDACTED] address.
- 5) The claimant moved into the [REDACTED] apartment the last day of February and was given keys to their mailbox a few days later. When they opened the box, they found the two appointment letters and the closure letter. They immediately called the Department but since it was after 4:00 they were told to call back the next day. When they called the next day, they were given an April 2, 2007 appointment date to come in to complete the PRC. The claimants complied and the PRC was completed and signed on April 2, 2007 and April benefits were issued.
- 6) The Repayment unit calculated a repayment claim for December thru March in the amount of \$1,579. on May 22, 2007 and issued a notification of this claim to the claimant on May 23, 2007. This notice prompted the claimant to request this hearing.
- 7) **WV Income Maintenance Manual § 1.25 S, 3. c**
The initial WV WORKS benefit is prorated from the date of application once all eligibility requirements are met, including signing the PRC and participating in orientation.
- 8) **WV Income Maintenance Manual § 1.25 T**
The Personal Responsibility Contract (PRC), form is a negotiated contract between each of the adult or emancipated minor members of the WV WORKS AG, or non-recipient Work-Eligible Individual(s), and the Worker, as the representative of the Department.
There are 2 parts to the form and each serves a different purpose. Refusal or other failure, without **good cause**, (emphasis added) to sign either part of the form results in ineligibility for the entire AG.
Completion and signature of both parts of the form are required prior to approving the WV WORKS AG.

- 9) **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.

- 10) **WV Income Maintenance Manual § 24.4**
Local Office Responsibilities in the Work Program Aspect of WV Works:
To meet the goals of the WV WORKS Program, a Worker performs the following activities for WV WORKS families:
 - Determines good cause for failure to comply with the PRC

VIII. CONCLUSIONS OF LAW:

- 1) Policy 1.25 T provides that the PRC is to be completed and signed prior to the approval for WV Works. The Rights and Responsibilities advised the claimant that failure to sign the PRC will result in not receiving cash assistance. No case comments or other evidence was provided to address the reason the PRC was not completed on the date of application or why an appointment was not arranged for on that date. It appears that the clients were not given the opportunity to complete a PRC on that date and yet they received notice that their application had been approved.

- 2) The Department clearly was aware that these clients were residing in a homeless shelter as the Department mailed the approval letter to the shelter address. No evidence was provided to dispute the claimant's testimony that she advised the Department that she would not be moving to the new address until March. The February letters were not returned to the Department therefore it is understood why the Department believed the claimant was refusing to cooperate. When the claimant called the office the beginning of March to explain that she had just obtained the letters from her new mailbox, the Department should have followed Policy 24.4 and determined that there was good cause for the failure to comply.

- 3) Evidence presented in Exhibit D-4 and D-5 advises the claimants that they are to come to an appointment to **update** (emphasis added) their PRC. This would indicate that there was an initial PRC completed and signed. Again, no case comments or other evidence was provided to explain this.

- 4) The purpose of the WV Works program 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 continuation of benefits for April as well as the benefits inadvertently issued for December thru March supports that this family was in need and otherwise eligible for the benefits, which they received. Evidence shows they were not given the opportunity to complete a PRC on the date of the application and that they had good cause for not reporting for the February appointments. When they contacted the Department the first part of March to find out what they needed to do, they were given an appointment some weeks later to come to complete the PRC and they readily complied.

- 5) Testimony and evidence provided for this hearing infers that the Department was dealing with an excessive workload, which may have led to the PRC not being completed prior to approval, and to the confusion regarding the date, the claimant would be moving to the new apartment. It is probable that the Department had good cause for its error and it is clear that the claimant had good cause for not appearing for the scheduled appointments. Both situations were remedied prior to the May date that the repayment unit established the claim for \$1,579.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 28th Day of February, 2008.

Sharon K. Yoho
State Hearing Officer