



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 970
Danville, WV 25053

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

January 7, 2008

Dear Ms. [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 15, 2007. 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: The application is considered complete, when the client signs an OFS-2 or OFS-5 which contains, at a minimum, his name and address. An application is considered incomplete when the client chooses not to sign the OFS-2. The client must be encouraged to sign the application so there is no misunderstanding that he was denied the right to apply. (WV Income Maintenance Manual Section 1.25B)

The information, which was submitted at your hearing, revealed that the Department failed to encourage your husband to sign the application during the March 2006 redetermination interview; and you were not informed that it was necessary for him to sign the forms until June 2006. You were entitled to be informed of all eligibility requirements at the time of redetermination and the Department failed to provide you with this information.

It is the decision of the State Hearing Officer to **reverse** the action of the Department to establish and seek repayment of a WV Works Cash Assistance claim in the above matter.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Brian Shreve, [REDACTED] DHHR

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

██████████
Claimant,

v.

Action Number: 07-BOR-2221

**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 15, 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 November 15, 2007 on a timely appeal, filed October, 2007.

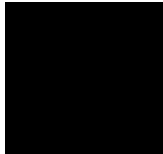
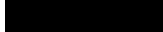
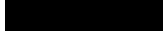
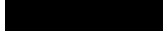
It should be noted here that repayment was already in progress at the time of this hearing.

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
 Claimant's infant child
 Claimant's infant child

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 § 1.25B, 1.25E, 1.25F, 20.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Combined Application and Review Form dated March 7, 2006
- D-2 Case Comments dated March 7, 2006
- D-3 West Virginia Income Maintenance Manual Policy § 1.25E
- D-4 West Virginia Income Maintenance Manual Section 1.25F
- D-5 Case Comments dated June 2, 2006
- D-6 Case Comments dated June 13, 2006
- D-7 Cash Assistance Claim Determination
- D-8 West Virginia Income Maintenance Manual Section 1.25M
- D-9 West Virginia Income Maintenance Manual Section 20.3
- D-10 Notification letter dated September 11, 2006
- D-11 Notification letter dated June 7, 2006

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was undergoing an annual redetermination interview during March 2006 to determine continued eligibility for WV Works Cash Assistance benefits. The Claimant was interviewed by the Department worker during March 2006 at which time she was asked to sign the Combined Application and Review form as well as the Rights and Responsibilities form. The Claimant signed the forms she was asked to sign during the review process, and subsequently was determined to continue to be eligible for WV Works Cash Assistance benefits beginning April 2006.
- 2) The Claimant and her husband were both receiving Supplemental Security Income Benefits (SSI). The Department worker did not tell the Claimant at any time during the redetermination process that her husband was required to be interviewed and sign certain eligibility forms.
- 3) The Department sent the Claimant a notification letter dated June 7, 2006 which includes the following:

This is to inform you that the information listed below is needed to establish your eligibility and/or deductions for WV Works . If this information is not made available to this office by 6/12/06 your eligibility for benefits and/or deductions cannot be established or continued.

I need [REDACTED] to come into the office to sign application and also, Rights and Responsibilities. He did not sign this on March 7, 2006 when the last review was completed. He must sign these documents.

- 4) The Claimant testified that the Department never told her that her husband was required to be interviewed and sign certain forms in order to continue to be eligible. She also stated that the Department never required his presence or signature during previous redeterminations, and she could not have known that this was needed.
- 5) The case was determined to be accurate except for the lack of signature from both adults at the time of the March 2006 review.
- 6) The Department became aware of their oversight in June 2006 and took steps to obtain the Claimant's husband's signature. He was interviewed and his signature secured on

June 13, 2006. The Department established a WV Works Cash Assistance Overpayment Claim for the months of April 2006 and May 2006. The Claimant testified she never received notification of the overpayment until October 2007.

- 7) The Department contends that because the Claimant's spouse was not interviewed and his signature secured until June 2006, the case was ineligible for the months of April and May 2006. The Claimant contends that she was never informed during the redetermination process of this requirement, and therefore was denied services as a result.
- 8) WV Income Maintenance Manual § 20.3 states in pertinent part:

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.

When a client fails to report changes timely according to Section 2.17, B, and the change would have decreased benefits, a claim is established.

1. Agency Errors: The first month of overpayment is the month the change would have been effective had the agency acted properly.
1. When the client fails to provide accurate or complete information, the first month of the overpayment is the month the incorrect, incomplete information would have affected the benefit level, considering reporting and noticing requirements.

- 9) WV Income Maintenance Manual Section 1.25B states in pertinent part:

B. COMPLETE APPLICATION

The application is complete, when the client signs an OFS-2 or OFS-5 which contains, at a minimum, his name and address.

An application is considered incomplete when the client chooses not to sign the OFS-2. It is a withdrawal, and appropriate data system action and client notification must be completed. The recording in Case Comments must specify that the client did not want to sign the application and the reason for his decision. The client must be encouraged to sign the application so there is no misunderstanding that he was denied the right to apply.

- 10) WV Income Maintenance Manual Section 1.25E states in pertinent part:

WHO MUST BE INTERVIEWED

If the child is living with both parents or a parent and a stepparent, both must be interviewed unless:

- One parent or stepparent is hospitalized; or
- One parent or stepparent is employed and his working hours preclude participation in the interview during the agency's normal working hours.

- 11) WV Income Maintenance Manual Section 1.25F states in pertinent part:

WHO MUST SIGN

The individual(s) who is interviewed must sign the OFS-2. If the child(ren) lives with both parents or a parent and a stepparent, both must sign, even if separate interviews are conducted.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear that signatures from both parents are required for WV Works Cash Assistance. However, the Claimant was not informed of this requirement, and cannot be expected to know the policy. It is the Department's responsibility to inform the Claimant of the requirements, and they failed to do so at the time of redetermination. The Claimant's husband did not refuse to sign the application forms, and clearly complied as soon as he was notified of this requirement.
- 2) The Department's determination that the Claimant was ineligible for the months of April and May 2006 due to the lack of her husband's signature is incorrect. The Claimant clearly complied with all she was asked to do during the redetermination process, and by failing to inform her of the signature requirement the Department in effect denied her the right to apply. The Claimant received an accurate payment for the months in question considering her household circumstances. The only reason the Department used for establishing the claim was the fact that the husband did not complete the interview process and sign the forms at the time of redetermination.

IX. DECISION:

It is the decision of this Hearing Officer to **reverse** the Department's decision to establish a WV Works Cash Assistance Claim for the months of April and May 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 7th Day of January, 2008

**Cheryl Henson
State Hearing Officer**