



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Joe Manchin III
Governor

Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary

September 9, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 27, 2009. Your hearing request was based on the Department of Health and Human Resources' proposal to establish and seek collection of a WV WORKS cash assistance repayment 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 through the WV WORKS Program is based on current policy and regulations. Some of these regulations state that when an AG (Assistance Group) 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 {West Virginia Income Maintenance Manual §20.3}

The information submitted at your hearing confirms that you received cash assistance during the period April 2008 through March 2009 for which you were not entitled.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to establish and seek collection of a WV WORKS cash assistance repayment claim in the amount of \$3093.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Roger Kimble, State Repayment Supervisor, WVDHHR

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

-----,

Claimant,

v.

Action Number: 09-BOR-1034

**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 September 9, 2009 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 27, 2009 on a timely appeal filed April 13, 2009.

II. PROGRAM PURPOSE:

The purpose of WV WORKS is to help economically dependent, at-risk families become self-supporting. It is a work-oriented, performance-based, time-limited Program that emphasizes employment and personal responsibility. The goals of WV WORKS are to achieve more efficient and effective use of public assistance funds, reduce dependency on public programs by promoting self-sufficiency, and structure assistance to emphasize employment and personal responsibility.

III. PARTICIPANTS:

-----, Claimant
Karen Crossland, State Repayment Investigator (SRI)

Presiding at the Hearing was Thomas E. Arnett, 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 is correct in its proposal to establish and seek collection of an overpayment of WV WORKS cash assistance from the Claimant.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 10.3.N & Chapter 20

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- Exhibit-1 Cash Assistance Claim Determination and Computation Sheets
- Exhibit-2 Verification of child support payments
- Exhibit-3 WVIMM, Chapter 10.3.N
- Exhibit-4 WVIMM, Chapter 20

VII. FINDINGS OF FACT:

- 1) On or about April 8, 2009 the Claimant was notified via a Notification of Cash Assistance and/or School Clothing Allowance Overpayment that she received \$3093 in cash benefits that she was not eligible to receive during the period April 1, 2008 to March 31, 2009. This notice indicates that an agency error claim was caused by unearned income.
- 2) The Department's representative contends that the Claimant received child support that was not counted as a resource (unearned income) for WV WORKS. The Department noted that while it had been previously documented in the Claimant's WV WORKS case that child support income was being received, the Claimant's WV WORKS case was not coded correctly and the child support income did not count as a resource.
- 3) The Department submitted Exhibit-1 to show the months in which the Claimant was overpaid WV WORKS cash assistance during the period April 2008 through March 2009. Supporting documentation accompanies Exhibit-1 showing the amount of the WV WORKS cash assistance that was issued for each of the months in question. Exhibit-2 is a record from the Bureau for Child Support Enforcement (BCSE) that documents how much child support was sent (disbursed) to the Claimant during these months. The Department does not allege any wrongdoing on the part of the Claimant as this was clearly an agency error resulting in the Claimant receiving more cash assistance than she was legally entitled.

- 4) The Claimant contends that some of her child support money was already withheld to pay the assistance check back. The Claimant indicated that an audit of her child support case would support her claim. While this information was originally requested from the Department during the hearing, it is not necessary in determining if the Claimant was overpaid during the period in question. The purpose of this appeal will focus solely on whether the Claimant was overissued WV WORKS benefits. The Claimant reported that she would prefer to stay on WV WORKS because child support payments are inconsistent.
- 5) The West Virginia Income Maintenance Manual, Chapter 10.3, provides directions as to how income is counted in different programs administered by the Department. Section 10.N (Child Support) reveals that for WV WORKS, child support, when redirected [through BCSE], only count the amount forwarded to the client by BCSE. When not redirected to BCSE, the entire portion is counted as income.
- 6) West Virginia Income Maintenance Manual, Chapter 20.3 states that repayment is pursued for cash assistance overpayments made in the WV WORKS Program. Policy goes on to say 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. The policy by which cash assistance claims are referred, established, collected and maintained follows.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that child support counts as unearned income in the WV WORKS Program, and when directed through BCSE, the amount forwarded to the Client is counted against the cash assistance grant. When the amount of child support disbursed exceeds the cash assistance amount by more than \$50.00 (to exceed the \$50.00 child support income disregard), the Claimant is ineligible for cash assistance that month.
- 2) The Claimant may be correct in stating that BCSE did not send all of the money collected as arrearages in her child support case may exist, however, in the months when the Claimant received child support in excess of the grant \$301 + \$50 (child support income disregard) or \$352 – the Claimant was not eligible for cash assistance through the WV WORKS Program. In other months, the Claimant was eligible for a partial cash assistance check as noted in Exhibit-1. However, a thorough review of Exhibit-1 and Exhibit 2 confirms the Department's position – the Claimant was overissued cash assistance in the amount of \$3093 during the period April 2008 through March 2009.

IX. DECISION:

After reviewing the evidence and the applicable policy and regulations, it is the decision of the State Hearing Officer to **uphold** the proposal of the Department to establish and seek collection of a WV WORKS cash assistance repayment claim in the amount of \$3093.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 9th Day of September, 2009.

**Thomas E. Arnett
State Hearing Officer**