



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 468
Hamlin, WV 25523

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 12, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 29, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to establish a agency error WV WORKS cash assistance claim against your household in the amount of four hundred fifty six dollars (\$456.00).

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 that for WV WORKS cases, all changes in a client's circumstances must be reported immediately. (WV Income Maintenance Manual Section 2.17.B.2.) Retirement, Survivors, Disability Insurance (RSDI) is counted as unearned income for the WV WORKS cash assistance program. (WV Income Maintenance Manual Section 10.3.RRR) 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. (WV Income Maintenance Manual Section 20.3)

The information, which was submitted at your hearing, revealed that you began receiving Retirement, Survivors, Disability Insurance (RSDI) income from the Social Security Administration on behalf of your granddaughter in July 2008. This income was not reported or considered in the eligibility process for WV WORKS cash assistance until February 2009, resulting in an overpayment.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to establish and collect a WV WORKS cash assistance claim for the months of September 2008 through February 2009 in the amount of four hundred fifty six dollars (\$456.00).

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Brian Shreve, Boone DHHR

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

-----,

Claimant,

v.

Action Number: 09 – BOR - 1335

**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 29, 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 29, 2009 on a timely appeal, filed June 4, 2009.

II. PROGRAM PURPOSE:

WV WORKS

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

-----, Claimant's husband

-----, Claimant's granddaughter

Brian Shreve, DHHR Repayment Investigator

Steve Baisden, State Hearing Officer, observing

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 claim in the amount of four hundred fifty six dollars (\$456.00).

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 2.17.b.2, 20.3, and 10.3RRR

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case Comments dated February 5, 2009
- D-2 Inter-Agency Referral Form signed April 8, 2009 and accompanying documents
- D-3 WV Income Maintenance Manual Section 2.17
- D-4 WV Income Maintenance Manual Section 10.3.RRR
- D-5 Case Comments dated February 23, 2009 and March 16, 2009
- D-6 Cash Assistance Claim Determination dated May 22, 2009 and accompanying forms
- D-7 WV Income Maintenance Manual Section 20.3
- D-8 Notification letter dated May 26, 2009

Claimant Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was actively receiving WV WORKS cash assistance as a caretaker relative in February 2009 for her grandchildren only. As a caretaker relative the Department was able to exclude the Claimant's income and assets from consideration in the eligibility process.
- 2) The Claimant reported (D-5) during her WV WORKS caretaker relative review interview on February 23, 2009 that her granddaughter was now eligible for a Retirement, Survivors, Disability Insurance (RSDI) check from the Social Security Administration in the amount of eighty one dollars (\$81.00), and Supplemental Security Income (SSI) in the amount of six hundred thirteen dollars (\$613.00).

- 3) The Department also became aware (D-1) of the RSDI income for the Claimant's granddaughter on February 5, 2009 while clearing an informational printout from Social Security. The Department contends that RSDI income is counted as unearned income in determining eligibility for WV WORKS cash assistance; however, SSI income is not counted in determining eligibility.
- 4) The Department subsequently determined (D-2) that the Claimant's granddaughter began receiving the RSDI income in July 2008 in the amount of seventy six dollars (\$76.00) monthly; therefore, they determined that an overpayment had occurred and established a WV WORKS cash assistance repayment claim (D-6) for the period of September 2008 through February 2009 in the amount of four hundred fifty six dollars (\$456.00).
- 5) The Claimant contends that they received no increase in income when the RSDI income started. They added that when they began to receive the RSDI in July 2008, their granddaughter's SSI decreased and therefore there was no increase in income.
- 6) The Department contends that although there may have been no increase in total income for their granddaughter, policy requires them to count the RSDI income as unearned income when determining WV WORKS eligibility. Policy does not require them to count SSI income in determining WV WORKS eligibility.

7) **WV Income Maintenance Manual § 2.17.B.2 states in pertinent part:**

Timely Reporting

For WV WORKS case, all changes in a client's circumstances must be reported immediately. In addition, new earned income must be reported within 10 days of the date new employment begins to avoid certain penalties.

8) **WV Income Maintenance Manual § 20.3 states in part:**

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.

9) **WV Income Maintenance Manual § 10.3.RRR states in part:**

Income

Source of Income

RRR. RSDI (Retirement, Survivors, Disability Insurance

Program of Assistance

WV WORKS

Counted? - Unearned. Count the amount of the client's entitlement. This includes any amount deducted for Medicare, if applicable.

10) WV Income Maintenance Manual Section 10.3.CCCC states in part:

Income

Source of Income

CCCC. SSI (Supplemental Security Income)

Program of Assistance

WV WORKS

Counted? - No

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in that for WV WORKS Cash Assistance, the Claimant is obligated to report changes immediately. Policy is also clear in that RSDI income from the Social Security Administration is considered unearned income for WV WORKS cash assistance and must be considered in determining eligibility and payment amount. SSI income is not counted in determining eligibility for WV WORKS.
- 2) Policy dictates that 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 amount of the claim is the difference between the amount of benefits received and the amount the AG was entitled to receive.
- 3) The evidence shows the Claimant began receiving the RSDI income in the amount of seventy six dollars (\$76.00) for her granddaughter in July 2008 but did not report the income until February 2009. The income is considered unearned income for the WV WORKS program and does affect the amount of WV WORKS cash assistance the AG is eligible to receive. The income was not considered in the eligibility process from September 2008 through February 2009; therefore, an overpayment occurred.
- 4) The Department is correct in its determination that a Client Error Overpayment occurred in the amount of four hundred fifty six dollars (\$456.00) for the period of September 2008 through February 2009.

IX. DECISION:

It is the decision of this Hearing Officer that the Department correctly calculated and followed policy, and is **upheld** in the establishment of this claim.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day of August, 2009

**Cheryl Henson
State Hearing Officer**