



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General

Joe Manchin III
Governor

Board of Review
1400 Virginia Street
Oak Hill, WV 25901

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

September 29, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 18, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your WV WORKS benefits for failure to attend orientation.

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 WV WORKS program is based on current policy and regulations. These regulations provide that both parents living in the same household must attend orientation in order to receive WV WORKS benefits (WV Income Maintenance Manual § 1.25).

The information submitted at your hearing revealed that the father of your children, -----, was living in your household while you were receiving WV WORKS benefits.

It is the decision of the State Hearings Officer to **Uphold** the action of the Department to terminate your WV WORKS benefits -----'s failure to attend orientation.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Board of Review
Beverly Ballengee, Family Support Supervisor

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

-----,

Claimant,

v.

Action Number: 09-BOR-1754

**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 18, 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 September 18, 2009 on a timely appeal, filed August 17, 2009.

It should be noted here that the claimant's benefits under the WV WORKS program have not been continued pending a decision.

II. PROGRAM PURPOSE:

The Program entitled WV WORKS is administered by the West Virginia Department of Health & Human Resources.

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

-----, Witness for Claimant

----- (observing)

-----, Witness for Claimant (testified by phone)

George Mosko, Family Support Specialist
Ellis Bryson, Front End Fraud Investigator

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

This hearing was held by video conference.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether or not the decision of the Department to terminate Claimant's WV WORKS benefits was correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 1.25 and 9.21

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Appointment Letter
- D-2 Termination Notification Letter dated August 27, 2009
- D-3 Hearing Request
- D-4 Front End Fraud Unit Investigation Report dated July 29, 2009
- D-5 WV Income Maintenance Manual § 9.21
- D-6 Department's Case Summary

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Claimant had been receiving WV WORKS (WVW) benefits when a referral was made to the Front End Fraud Unit (FEFU) regarding her household composition. The result of the FEFU investigation was that the father of Claimant's children, ----, was residing in her household. As ----was required to be included in Claimant's Assistance Group (AG), her WVW benefits were terminated for his failure to attend orientation (D-2).
- 2) Ellis Bryson, FEFU investigator, testified to the investigation he conducted on Claimant. Mr. Bryson stated he verified with collateral contacts that Claimant and ---- resided together from November 2007 to July 2009 (D-4).

Mr. Bryson contends Claimant and ----moved to [REDACTED] WV in November 2007. They moved to [REDACTED] WV in November 2008. This was verified with the owner of the Mobile Home Park who advised Mr. Bryson that ----occasionally paid the lot rent. His investigation was closed in July 2009 and could not attest to Claimant's current household composition.

- 3) George Mosko, Claimant's WVW worker, testified that he was unable to contact ----to attend orientation. Claimant's benefits were terminated as policy requires both parents in the household attend orientation.
- 4) Claimant testified that she lived with ----in [REDACTED] until October 2007 when they separated. She moved back to West Virginia and lived with her mother for a short period until her trailer could be set up on her mother's property. She did not move to [REDACTED] until April 2009.

Claimant denied that ----lived with her at any time since her return to West Virginia. He comes to visit their children and works on her trailer. He helped set up her trailer at the [REDACTED] in April 2009. Her landlord saw him there when he came by to collect the lot rent.

Claimant stated ----only spent the night with her once. He lives with his father in [REDACTED]. He usually visits several times a week, whenever he can get someone to drive him.

- 5) Claimant's mother ---- testified that ----does not live with her daughter. She was her landlord at [REDACTED] and he did not reside with her while she lived at that address. Ms. [REDACTED] stated ----and Claimant continue to have a relationship because of their children. He visits and works on Claimant's trailer.
- 6) ----, owner of [REDACTED] testified that Claimant moved her trailer there in April 2009. Ms. [REDACTED] stated the father of Claimant's children had been living there. She and her husband had some problems collecting lot rent from Claimant and visited her at least twice to collect. ----was present on those occasions.
- 7) WV Income Maintenance Manual § 9.21 A(1) states:

The Assistance Group: 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.
- The parent(s) of the child(ren) identified above when the parent(s) lives with the child(ren)

- 8) WV Income Maintenance Manual § 1.25 U states:

Each adult and emancipated minor in the WV WORKS AG and non-recipient Work-Eligible Individual must receive orientation to the Program.

Attending a WV WORKS orientation and signing the OFA-WVW-4 are eligibility requirements, so eligibility may not be established until these are completed.

VIII. CONCLUSIONS OF LAW:

- 1) As dictated by policy, both parents residing in the same household are required to be included in the same Assistance Group and must attend orientation to receive WV WORKS benefits.
- 2) Credible testimony from Claimant's landlord indicated the father of her children was living with her for a period of time. As he was required to be included in Claimant's Assistance Group, he was required to meet the eligibility requirements of the WV WORKS program.
- 3) Claimant's WV WORKS benefits were correctly terminated for failure of ----- to complete orientation.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to terminate Claimant's WV WORKS benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th day of September 2009.

**Kristi Logan
State Hearing Officer**