



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

Joe Manchin, III  
Governor

Martha Yeager Walker  
Secretary

April 21, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 14, 2009. Your hearing request was based on the Department of Health and Human Resources' proposal of a repayment of WV Works benefits.

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 when 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 Assistance Group was entitled (West Virginia Income Maintenance Manual § 20.3).

The information which was submitted at your hearing revealed that your child support income was not counted in determining your WV Works allotment for October 2008. Although the overpayment was the result of an agency error, all overpayments, regardless of fault, are subject to repayment.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to establish a repayment claim for WV Works of \$55 for October 2008.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Rusty Udy, Repayment Investigator

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

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**Claimant,**

v.

**Action Number: 09-BOR-828**

**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 April 14, 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 April 14, 2009 on a timely appeal, filed March 3, 2009.

**II. PROGRAM PURPOSE:**

The Program entitled WV Works is 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 Father

Rusty Udy, Repayment Investigator

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

**IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether or not the Department's proposal of a repayment of an overpayment of WV Works is correct.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 10.24 and 20.3

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Fair Hearing Summary
- D-2 Case Members History Screen (AQCM) from Rapids Computer System
- D-3 WV Works Grant Determination Screen (EAWG) from Rapids Computer System
- D-4 Child Support Disbursement History from Oscar Computer System
- D-5 WV Works Disbursement History Screen (IQAF) from Rapids Computer System
- D-6 Case Comments (CMCC) from Rapids Computer System
- D-7 Acknowledgement of Automatic Assignment of Support Rights Form dated October 1, 2008
- D-8 Rights and Responsibilities Form, pages 8 and 9, dated October 1, 2008
- D-9 Personal Responsibility Contract dated October 9, 2008
- D-10 Combined Application Form dated October 20, 2009
- D-11 Personal Responsibility Contract dated October 23, 2009
- D-12 Rights and Responsibilities Form, pages 8 and 9, dated October 20, 2009
- D-13 Notification Letter dated October 27, 2009
- D-14 Benefit Recovery Referral Screen (BVRF) from Rapids Computer System
- D-15 Cash Assistance Claim Determination Form
- D-16 Assistance Claims Calculations Form
- D-17 WV Income Maintenance Manual §10 Appendix D
- D-18 Notification Letter dated February 23, 2009
- D-19 Hearing Request received March 3, 2009
- D-20 Form IG-BR-29
- D-21 WV Income Maintenance Manual § 1.2 E
- D-22 WV Income Maintenance Manual § 10.24
- D-23 WV Income Maintenance Manual § 20.1

**Claimants' Exhibits:**

None

## VII. FINDINGS OF FACT:

- 1) Claimant applied for WV Works on October 20, 2008. Her benefits were backdated to October 9, 2008 when she attended Orientation. Claimant was approved for a WV Works prorated amount of \$249 for October 2008 (D-3 and D-5).
- 2) A child support payment of \$62.50 was issued to Claimant on October 6, 2008 and two (2) additional payments of \$25.00 and \$37.50 were issued on October 21, 2008 for a total of \$125.00 for the month of application (D-4). This income was not counted in determining Claimant's WV Works amount for October 2008 resulting in an overissuance of \$55 (D-3 and D-5). A referral for repayment was made when the error was discovered (D-15).
- 3) Claimant testified that she did not feel like it was fair for her to be held responsible for a mistake that her caseworker made. Claimant reported that she received the child support that was issued on October 6, 2008 to her worker on October 9, 2008. She also questioned her worker about what she should do about the balance of her child support that would be issued at the end of the month. Claimant stated she was advised by her caseworker that her child support income was already in the computer system and that she could spend the child support when it was received.

Claimant stated she saw her caseworker enter in \$125.00 child support income into the computer system during her application. She could not understand how it would not have been counted when she knew it had been added to her case. Claimant stated she should not have to repay the \$55 when she reported her income as required.

- 4) WV Income Maintenance Manual § 10.24 B(2) states:

If the client is receiving child support payments at the time of application, and the application is approved, it may not be possible or practical for him to redirect the support payment received during the effective month of approval. It is also possible that the child support, which has already been redirected to the Bureau of Child Support Enforcement (BCSE), has been released to the client. In these situations, up to \$100 per month for families with 1 child and up to \$200 for families with more than 1 child eligible for TANF is disregarded and the remainder is counted as income.

- 5) WV Income Maintenance Manual § 10.24 C(3) states:

Determining Countable Income (and Benefit Amount)

Step 1: Add together the non-excluded gross earned income of the Assistance Group (AG) and any disqualified person(s).

Step 2: Subtract the Earned Income Disregard, i.e., 40% of earnings.

Step 3: Subtract the Dependent Care Deduction for each person who pays dependent care.

Step 4: Add the non-excluded unearned income of the AG and any disqualified person(s). The resulting amount is the countable income.

Step 5: Determine the maximum WV WORKS benefit amount for the AG size, using Appendix A.

Step 6: If the amount arrived at in Step 4 equals or exceeds the amount in Step 5, the AG is ineligible. If the amount arrived at in Step 4 is less than the amount in Step 5, the AG is income eligible and the amount from Step 4 is subtracted from the amount in Step 5.

Step 7: If the 25% reduction is applicable, multiply the amount in Step 6 by .25 and drop any cents, or use Appendix F of this Chapter. Subtract this amount from the Step 6 amount.

Step 8: If a sanction is applicable, multiply the Step 8 amount by .3333 (1/3) or .6666 (2/3) and drop any cents, or use Appendix F. Subtract this amount from the Step 8 amount.

Step 9: Subtract any repayment amount from the amount remaining after Step 9.

Step 10: Add any special needs amount to the Step 10 amount. The result is the WV WORKS benefit amount.

6) WV Income Maintenance Manual § 20.3 states:

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.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy makes no distinction between claims resulting from errors made by the Claimant or the agency. The repayment amount to be recovered is the difference between the entitlement the Assistance Group received and the entitlement the assistance group should have received.
- 2) Claimant's child support income of \$125.00 was not counted in determining her WV Works allotment for October 2008. While Claimant may have reported this income to her caseworker, it was not entered into the computer system and was not considered for the WV Works benefit amount. The resulting agency error was an overpayment of \$55.
- 3) Claimant must repay the WV Works amount of \$55 received in October 2008 for which she was not entitled.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to establish a WV Works repayment claim of \$55 for the month of October 2008.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 21<sup>st</sup> day of April 2009.**

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**Kristi Logan  
State Hearing Officer**