



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

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

August 27, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 17, 2010. Your hearing request was based on the Department of Health and Human Resources' proposal to seek the repayment of WV WORKS benefits.

In arriving at a decision, the State Hearing 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. Some of these regulations state that a child must be living with a specified relative in a place established as the relative's home in order to be eligible for WV WORKS benefits. (West Virginia Income Maintenance Manual Section 15.2, B)

Information submitted at your hearing reveals that you received \$2,096 in WV WORKS benefits for your great-grandson to which you were not entitled for the period of September 2009 through April 2010.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to seek the repayment of WV WORKS benefits.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Leonard Madia, Repayment Supervisor, DHHR

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

-----,

Claimant,

v.

Action Number: 10-BOR-1548

**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 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 August 17, 2010 on a timely appeal filed June 14, 2010.

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
Leonard Madia, Repayment Supervisor, DHHR
Becky Pancake, Repayment Investigator, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Agency has correctly proposed to seek the repayment of WV WORKS benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 2.17, B; 15.2, B; and 20.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV WORKS application with Rights and Responsibilities dated May 15, 2009
- D-2 Case comments from May 15, 2009 through March 25, 2010
- D-3 Cash Assistance Claim Determination form
- D-4 West Virginia Income Maintenance Manual Sections 2.17, 8.2 and 20.3

Claimant's Exhibits:

- C-1 Order Filing Petition and Petition filed in Circuit Court of [REDACTED] County in May 2009
- C-2 Dental bills paid for Claimant's great-grandson
- C-3 Photographs of injuries to Claimant's great-grandson
- C-4 Child Support documentation regard Claimant's grandson

VII. FINDINGS OF FACT:

- 1) On May 15, 2009, the Claimant applied for WV WORKS cash assistance for his great-grandson, ----- . It should be noted that the Claimant applied for WV WORKS as a caretaker relative, so he was not included in the assistance payment. Exhibit D-1 bears the Claimant's signature on Page 7 of the application and on the Rights and Responsibilities form. The benefit was approved on May 20, 2009.
- 2) A redetermination appointment was scheduled for the Claimant on April 1, 2010. Case comments dated March 24, 2010 (D-2) indicate that the Claimant sent a letter to DHHR stating that ----- remained in legal and physical custody of DHHR. Case comments state that the worker telephoned the Claimant and was informed that the child was with his father in [REDACTED] and had been with his father for the entire 2009-2010 school year. At that time, benefits were terminated effective April 30, 2010 and the case was referred for repayment.
- 3) DHHR Repayment Supervisor Leonard Madia contended that the Claimant received cash benefits to which he was not entitled for the period of September 2009 through April 2010 because the child was neither residing in his home, nor in the State of West Virginia. The Repayment Supervisor testified that the total overpayment was \$2,096, as revealed on a Cash Assistance Claim Determination form (D-3). The Repayment Supervisor stated that the Claimant had signed the Rights and Responsibilities form (D-1) in conjunction with his May 2009 WV WORKS application, agreeing to keep DHHR informed of all changes in the child's living status.

- 4) The Claimant testified that he was directed by Child Protective Services to apply for WV WORKS benefits for his great-grandson, who was placed in his household through a [REDACTED] County Circuit Court Petition (C-1) during an abuse investigation involving the child's mother and step-father. The Claimant indicated that his great-grandson had sustained physical injuries from the abuse and his main concerns were for the child at that time. He agreed that he had signed the WV WORKS application/Rights and Responsibilities, but stated that he was not concerned about what he was signing at the time.

The Claimant testified that his great-grandson traveled to [REDACTED] at the end of July 2009 for a two-week visit with his father (the Claimant's grandson). As it was nearing time for school to start, an oral agreement was made so that the child could remain in [REDACTED] with his father and attend school. The Claimant believes the agreement was made with the child's guardian ad litem. As part of the agreement, the child was required to travel back to West Virginia every two to three weeks to have visitation with his mother. He normally stayed at the Claimant's residence while in West Virginia for visitation.

The Claimant provided Exhibit C-2 to verify that he has paid around \$3,800 in dental bills for his great-grandson, as the child required extensive dental work. He also indicated that his grandson was still paying child support (C-4) to DHHR for -----and that he assisted his grandson with these payments.

The Claimant testified that he was receiving the WV WORKS benefits while his great-grandson's case was still unresolved. He believed that he was still responsible for the child and did not intend to receive benefits to which he was not entitled. The Claimant maintained that a lack of communication between the various units in DHHR puts an unfair burden on the victim.

- 5) West Virginia Income Maintenance Manual Chapter 15.2, B states that a child must be living with a specified relative in a place established as the relative's home in order to be eligible for WV WORKS benefits.
- 6) West Virginia Income Maintenance Manual Chapter 2.17, B states that all changes in income, assets, household composition and other circumstances must be reported. For WV WORKS cases, all changes in a client's circumstances must be reported immediately.
- 7) 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 state that when an 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.

Section 20.3, E (D-2) states that caretaker relatives who signed an application/redetermination form are considered liable debtors for WV WORKS overpayments.

VIII: CONCLUSIONS OF LAW:

- 1) Policy specifies that a child must be living with a specified relative in order to receive WV WORKS benefits, and changes in case circumstances – including household composition - must be reported immediately. Policy also stipulates that when an 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 repayment claim is the difference between the amount of benefits received and the amount of benefits to which the Assistance Group was entitled. Caretaker relatives are considered liable debtors for the WV WORKS Program.
- 2) The Claimant was receiving WV WORKS benefits for his great-grandson as a caretaker relative after the child was placed in his physical custody by order of the [REDACTED] County Circuit Court. The child left the Claimant's home for a visit with his father in [REDACTED] in July 2009 and was permitted to stay with his father. As the child was living with his father out of state and only returned to West Virginia for visitation with his mother, he was no longer residing with a specified relative within the State and was ineligible to receive WV WORKS benefits.
- 3) The Department has correctly pursued the repayment of WV WORKS benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to seek the repayment of \$2,096 in WV WORKS benefits.

X. RIGHT OF APPEAL:

See Attachment

X. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 27th Day of August, 2010.

**Pamela L. Hinzman
State Hearing Officer**