State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Joe Manchin III
Governor

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

April 21, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 18, 2010. Your hearing request was based on the Department of Health and Human Resources' establishment of a WV WORKS repayment claim due to household composition.

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 the WV WORKS assistance group (AG) includes all minor, dependent, blood-related and adoptive siblings who live in the same household and are otherwise eligible (West Virginia Income Maintenance Manual, Chapter 9.21). 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 (West Virginia Income Maintenance Manual, Chapter 20.3).

The information submitted at your hearing revealed that a change in household composition was not reported on your WV WORKS case, and an overpayment claim was correctly established.

It is the decision of the State Hearing Officer to **uphold** the Department's establishment of a WV WORKS overpayment claim.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Debbie Roberts, Department Representative

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW

-----,

Respondent,

v. **Action Number: 09-BOR-2382**

West Virginia Department of Health and Human Resources,

Movant.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on April 21, 2010, 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 March 18, 2010 on a timely appeal, filed December 3, 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:

-----, Respondent
Debbie Roberts, Department Representative

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

All persons offering testimony were placed under oath.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct to establish a WV WORKS overpayment claim against the Respondent.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapters 9.21; 20.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Combined Application and Review Form (CAF), dated September 25, 2008
D-2 Rights and Responsibilities form (DFA-RR-1), dated September 25, 2008
D-3 Case comments screen print
D-4 [redacted] County Circuit Court Order, entered February 6, 2009
D-5 West Virginia Income Maintenance Manual, Chapter 9.21
D-6 Benefit Recovery Referral screen print
D-7 Cash Assistance Claim Determination form; Overpayment notification, dated December 1, 2009
D-8 West Virginia Income Maintenance Manual, Chapter 20.3

VII. FINDINGS OF FACT:

1) Debbie Roberts, representative for the Department's Investigations and Fraud Management (IFM) unit, testified that on September 25, 2008, the Respondent completed an application (Exhibit D-1) and Rights and Responsibilities form (Exhibit D-2), for WV WORKS benefits for her grandchildren.

2) Case comments (Exhibit D-3), a court order (Exhibit D-4), and the testimony of -----, the Respondent, confirmed that the Respondent's grandchildren left permanent residence in -----'s home to return to reside with their parents in January 2009.

3) The West Virginia Income Maintenance Manual, Chapter 9.21, explains who must be included in a WV WORKS assistance group (AG), as follows, in pertinent part:

> 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. For this purpose only, otherwise eligible means living with a specified relative.

4) The West Virginia Income Maintenance Manual, Chapter 20.3, explains cash assistance claims and repayment procedures as follows, in pertinent 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.

5) ----- testified that she thought that the Department was aware of the custody change, and that she did not need to report this information. She testified that she spent the benefits only on her grandchildren or to make credit card payments on purchases she made for her grandchildren.

6) Ms. Roberts testified that the Department received a referral (Exhibit D-6) to establish a WV WORKS overpayment claim. The resulting claim, for $2040, represented the entire amount of WV WORKS benefits received during the period of time – March 2009 through August 2009 – that the Respondent was not entitled to receive them. Ms. Roberts presented the calculation sheet and notification letter for this claim (Exhibit D-7). Because of testimony during the hearing indicating Department knowledge, Ms. Roberts testified that she changed the claim type from a client error to an agency error.

VIII. CONCLUSION OF LAW:

1) Policy for the WV WORKS program requires an eligible assistance group to include the children it is intended to benefit. Policy additionally requires corrective action to be taken through the establishment of overpayment claims when benefits are received by ineligible households. Testimony and evidence confirmed that the Respondent failed to report when the grandchildren in her home returned to their parents' residence, but that a Department worker was aware of this information and failed to act on it correctly. This resulted in an overpayment of WV WORKS benefits to the Respondent in the amount of $2040, representing the total amount of benefits received between March 2009 and August 2009. The Department was correct to establish a $2040 WV WORKS overpayment claim, and to change the classification of the claim from client error to agency error to reflect the Department worker's knowledge of the household composition change resulting in the overpayment.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department to establish an agency error, WV WORKS overpayment claim, in the amount of $2040, against the Respondent.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Respondent's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of April, 2010.

_____

Todd Thornton
State Hearing Officer