



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Joe Manchin III
Governor

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

January 27, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 26, 2010. Your hearing request was based on the Department of Health and Human Resources' proposal to establish and seek collection of a WV WORKS cash assistance repayment claim against your household.

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 cash assistance through the WV WORKS Program is based on current policy and regulations. Some of these regulations state that when an AG (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 AG was entitled {West Virginia Income Maintenance Manual §20.3}

Information submitted at your hearing confirms that you received \$1,048 in cash assistance during the period August 2009 through November 2009 to which you were not entitled.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to establish and seek collection of a WV WORKS cash assistance repayment claim in the amount of \$1,048.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Teresa Smith, State Repayment Investigator, WVDHHR

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

-----,

Respondent,

v.

Action Number: 09-BOR-2449

**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 January 27, 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 January 26, 2010 on a timely appeal filed December 22, 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:

-----, Movant

Teresa Smith, State Repayment Investigator (SRI), Department representative

Presiding at the Hearing was Thomas E. Arnett, 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 is correct in its proposal to establish and seek collection of a repayment claim for cash assistance issued under the WV WORKS program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 9.21, 10.3.B & Chapter 20

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Cash Assistance Claim Determination dated 12/4/09 accompanied by monthly WV WORKS Grant Determination.
- D-2 Case Comments 6/15/09 – 6/23/09 (8 pages)
- D-3 Household Relationships documented in RAPIDS (3 pages)
- D-4 Notification of Cash Assistance and/or School Clothing Allowance Overpayment dated 12/7/09 (3 pages)
- D-5 West Virginia Income Maintenance Manual, Chapter 9.21

VII. FINDINGS OF FACT:

- 1) On or about December 7, 2009 the Respondent was notified via a Notification of Cash Assistance and/or School Clothing Allowance Overpayment that she received \$1,048 in cash benefits that she was not eligible to receive during the period August 2009 through November 2009. This notice indicates that an agency error resulted in a budget group error.
- 2) Evidence reveals the Respondent receives \$475 monthly in adoption assistance as she adopted her granddaughter (-----). When the Respondent was reviewed for cash assistance eligibility, the Department's worker failed to recognize that -----, another grandchild in the Respondent's care, is a biological sister to -----. Because the two children are siblings, policy requires they must be in the same budget group and all of the unearned income received in the budget group counts dollar for dollar against the cash assistance amount. Because the adoption assistance exceeds the cash assistance amount (\$262 per month), the Respondent was not eligible to receive any of the cash assistance paid to her during the period August 2009 through December 2009.
- 3) The Department submitted Exhibit D-1 to show how the proposed repayment amount was calculated. Because the Respondent was not eligible to receive any cash assistance benefits during the months August 2009 through November 2009, pursuant to policy found in the West Virginia Income Maintenance Manual, the Department is seeking repayment of \$1,048 in cash assistance benefits.

- 4) As a matter of record, the Respondent agrees with the facts of the case as presented by the Department and understands how the repayment amount was calculated. However, the Respondent has asked for a hearing as she does not understand why she should be responsible for repaying benefits when the Department made the error.
- 5) Policy found in the West Virginia Income Maintenance Manual, Chapter 9.21, states that all minor, dependent, blood-related and adoptive siblings who live in the same household and are otherwise eligible, must be included the budget group. For this purpose only, otherwise eligible means living with a specified relative.
- 6) Chapter 10.3 of the West Virginia Income Maintenance Manual confirms that adoption assistance is considered an “unearned” source of income in the WV WORKS Program and therefore counts against the cash assistance grant amount dollar for dollar.
- 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 say 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 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 dictates that all minor, dependent, blood-related and adoptive siblings who live in the same household must be included in the same assistance group (AG). Repayment is pursued for cash assistance overpayments made in the WV WORKS Program. 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. All overpayments are subject to repayment as policy makes no distinction between client and agency errors.
- 2) In this case, the Respondent’s adopted daughter and granddaughter are sisters, and therefore must be included in the same AG. Unearned income is counted against the cash assistance amount dollar for dollar and because the AG’s unearned income of \$475 exceeds the grant amount, the Respondent was not eligible for any cash assistance through the WV WORKS program.
- 3) Based on the evidence, the Respondent received \$1,048 in cash assistance benefits that she was not eligible to receive. As a result, the Department is correct to pursue repayment.

IX. DECISION:

After reviewing the evidence and the applicable policy and regulations, it is the decision of the State Hearing Officer to **uphold** the proposal of the Department to establish and seek collection of a WV WORKS cash assistance repayment claim in the amount of \$1,048.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 27th Day of January, 2010.

**Thomas E. Arnett
State Hearing Officer**