



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

April 23, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 9, 2010. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for support services for travel through the WV WORKS Program.

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 support services (travel assistance) through the WV WORKS Program is based on current policy and regulations. Some of these regulations state that payment of support services is authorized to assist WV WORKS participants in securing or maintaining employment or participating in other activities. The type and amount of any payment made must be based on need, i.e., without receiving the payment in that amount the client is not able to participate in an activity. Available services must be discussed and needs assessed by the Case Worker and the client during the interview and assessment process and at reviews. The client may also request services as needs arise. [WV Income Maintenance Manual, Chapter 24.14]

Information submitted at your hearing demonstrates the need for support services/travel reimbursement.

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying your request for support services/travel reimbursement through the WV WORKS Program. Reimbursement for travel expenses shall be awarded retroactively to December 1, 2009.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Mike Spurgeon, FSS, DHHR

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

-----,

Claimant,

v.

Action Number: 10-BOR-958

**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 April 9, 2010 on a timely appeal filed March 4, 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
Mike Spurgeon, FSS, DHHR

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 or not the Department was correct in its action to deny the Claimant's request for support services/travel reimbursement through the WV WORKS Program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 24.14

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification of Denial dated February 17, 2010
- D-2 WV Income Maintenance Manual, Chapter 24.14
- D-3 [REDACTED] Financial Aid Budget (Cost of Attendance 2009-2010 Financial Aid Year) received 2/10/10
- D-4 [REDACTED] Account Summary by Term – Financial Aid Account Summary Spring 2010 – received March 5, 2010
- D-5 Financial Aid Calculation showing the total needed to attend [REDACTED] for the 2009-2010 year
- D-6 Financial Aid Award history by year
- D-7 Verification of vehicle payment amount to Lendmark Financial
- D-8 Client's statement of expenses paid

Claimant's Exhibits:

- C-1 Correspondence requesting that the Claimant verify his grades, new class schedule and financial aid – dated December 28, 2009
- C-2 Correspondence from [REDACTED] M.D., F.A.P.A.

VII. FINDINGS OF FACT:

- 1) On or about February 17, 2010, the Claimant was notified that his request for support services payment related to travel expenses was denied. Exhibit D-1 states, in pertinent part – Your request for a support service payment has been denied. Under Section 24.14 of the WV DHHR Income Maintenance Manual, you must meet all of the following requirements to receive a support service payment.” The Department contends that item #3 in this list of five (5) requirements was not met, which states – “You must prove or show that you are not able to meet the requirements of your PRC unless you receive this support service...”

- 2) Evidence submitted at the hearing includes Exhibit D-3 (Cost of Attendance 2009-2010 Financial Aid Year) which shows the Claimant's annual projected cost to attend [REDACTED] is \$36,941. While this is the "projected" cost for the Claimant to attend [REDACTED] Exhibit D-5 reveals that the Claimant's financial award (this includes State and Federal Grants as well as student loans) for budget year 2009-2010 was \$21,150. As a matter of record, both parties agreed that \$7,778 of the Claimant's financial award remained (was available to the Claimant) after paying the required charges and fees for the Spring 2010 semester at WVU (See Exhibit D-4). It should be noted that \$6,250 of the Claimant's Spring 2010 financial aid award is student loans that must be repaid.
- 3) The Claimant provided information/verification of how the \$7,778 was spent (D-8), which includes the following – Rent paid \$4,050 (paid 12-09 through 8-10), Natural Gas \$1,273.50 (budgeted at \$141.50 per month paid 12-09 through 8-10), car payment \$1,817.22 (paid 1-10 through 6-10) and \$637.28 (Used for utilities, personal care items, vehicle maintenance, etc.).
- 4) The Department contends that the Claimant had \$7,778 available to him after all of his schooling expenses were paid and that he elected to spend his money on other things. In addition, the Claimant had more money available to him through financial aid, but he chose not to take advantage of the money available to him. Lastly, the Department noted that the Claimant has continued to attend [REDACTED] without support services/travel payment since November 2009 and this further supports the Department's contention that the Claimant has failed to demonstrate need as required by policy.
- 5) The Claimant testified that he has consistently been approved for support services/travel expenses while attending WVU and that his financial aid award for last year was \$3,000 more than this year. He indicated that he has resided in [REDACTED] and [REDACTED] Counties, and he was approved by his Department worker in each county travel reimbursement support services. He currently has a wife and three children in his care and they moved to [REDACTED] County in December 2009 (from [REDACTED] County) to get out of a bad neighborhood. The Claimant acknowledged that he could have spent the money differently, but feels his first responsibility is to make certain he has a home for his family. He further testified that he did not decline any financial aid except work study (See Exhibit D-5, Financial Aid Award) and that [work study] was not available to him because of his schedule. As proof of need, the Claimant provided a termination notice for non-payment of his electric bill and contends that he has been neglecting other expenses in order to pay for travel related to attending [REDACTED] Because the Claimant last received travel reimbursement for November 2009, he is requesting that reimbursement be granted for travel expenses incurred since December 1, 2009.
- 6) West Virginia Income Maintenance Manual (WVIMM), Chapter 24.14 states –

Payment for support services is authorized to assist WV WORKS participants in securing or maintaining employment or participating in other activities.

The type and amount of any payment made must be based on need, i.e., without receiving the payment in that amount the client is not able to participate in an activity. Available services must be discussed and needs assessed by the Case Worker and the client during the interview and assessment process and at reviews. The client may also request services as needs arise.

VIII. CONCLUSIONS OF LAW:

- 1) Policy and regulations that govern the WV WORKS Program state that support services are authorized to assist WV WORKS participants in securing or maintaining employment or participating in other activities. The type and amount of any payment made must be based on need, i.e., without receiving the payment in that amount the client is not able to participate in an activity.
- 2) Evidence in this case reveals that the Claimant received the maximum available funding through financial aid – there is no evidence to indicate any additional financial aid was refused. While the Department is correct in stating that the Claimant elected to spend the remaining amount of his financial aid on items other than travel, the expenditures provided by the Claimant demonstrate responsible and necessary spending. Furthermore, it should be noted that \$6,250 of this money is student loans that must be repaid. The Department's argument that the Claimant has been able to remain in school [despite not being approved for travel since November 2009] has no merit. As established by the Claimant, he has resorted to juggling utility bills in order to remain in school and is now receiving termination notices. This clearly demonstrates need for support services/travel reimbursement so the Claimant can remain in his WV WORKS activity and compliant with the requirements of his PRC.
- 3) Whereas need has been established, and assuming all other eligibility requirements have and continue to be met, the Department shall review and issue support services payments/travel reimbursement for the Claimant retroactive to December 1, 2009.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying your request for support services/travel reimbursement through the WV WORKS Program. Reimbursement for travel expenses shall be awarded retroactively to December 1, 2009.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of April, 2010.

Thomas E. Arnett
State Hearing Officer