



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

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

September 19, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 12, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to seek the repayment of WV WORKS/Employment Assistance Program (EAP) 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 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. (West Virginia Income Maintenance Manual Section 20.3)

Information submitted at your hearing reveals that you received \$1,152 in EAP benefits to which you were not entitled for the period of February 2012 through April 2012.

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

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Lori Woodward, Repayment Investigator, WVDHHR

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

IN RE: -----

Claimant,

v.

ACTION NO.: 12-BOR-1718

**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 telephonically on September 12, 2012, on a timely appeal filed July 16, 2012. The hearing was originally scheduled for August 22, 2012, but was rescheduled at the request of the Department.

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
Lori Woodward, Repayment Investigator, WVDHHR

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/Employment Assistance Program benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 20.2 and 24.16

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Request and letter from Claimant
- D-2 Employment Assistance Program agreements
- D-3 Participant Time Sheet for January 2012
- D-4 Cash Assistance Claim Determination for February 2012-April 2012, Benefit Recovery Referral, Case Comments, WV WORKS Grant Determination/DCA Gross Test information and WV WORKS Issuance History-Disbursement
- D-5 Notification of Cash Assistance Overpayment dated July 6, 2012
- D-6 Hearing/Grievance Request Notification
- D-7 Combined Application and Review Form with Rights and Responsibilities dated November 7, 2011
- D-8 Combined Application and Review Form with Rights and Responsibilities dated May 7, 2012
- D-9 West Virginia Income Maintenance Manual Section 24.16
- D-10 West Virginia Income Maintenance Manual Section 20.3

VII. FINDINGS OF FACT:

- 1) On November 19, 2011, the Claimant enrolled in the WV WORKS/Employment Assistance Program (EAP), as verified in Exhibit D-2. As part of the program, the Claimant agreed to complete 128 monthly work participation hours per month.
- 2) WVDHHR Repayment Investigator Lori Woodward testified that the Claimant failed to meet her 128-hour monthly participation requirement in January 2012, as revealed in a Participant Time Sheet (D-4). The Time Sheet indicates that the Claimant completed 115 hours of her participation requirement in January 2012. As a result, Ms. Woodward contended that the Claimant was ineligible for EAP benefits from February 2012 through April 2012, and received \$1,152 in cash assistance benefits to which she was not entitled (see Exhibit D-4, Cash Assistance Claim Determination). Ms. Woodward indicated that the error was written as an Agency error, as the benefits were not terminated in a timely manner.
- 3) The Repayment Investigator testified that the Claimant signed a Combined Application and Review Form with Rights and Responsibilities on November 7, 2011 (D-7), indicating she

understood that she may be required to repay benefits issued to her incorrectly as a result of unintentional errors made by WVDHHR.

- 4) The Claimant contended that she believed her college time sheet would also count toward her participation hours. She testified that she is attending college, so that she will not need to receive State assistance in the future. She stated that she struggles to pay her bills and is trying to make a better life for her family.
- 5) West Virginia Income Maintenance Manual Chapter 24.16 (D-9) states that EAP recipients - who are employed full-time and are considered a one-parent family - must work 128 hours or more per month. Once the participant has chosen the EAP benefit and has signed the participation agreement, the worker must lock in the post-employment period. If the participant reports a reduction in hours or a job loss and no longer meets the requirements, the worker must adjust the months of eligibility to end the EAP benefit.
- 6) West Virginia Income Maintenance Manual Chapter 20.3 (D-10) 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. Claims can be written for intentional or unintentional client or Agency errors.

VIII: CONCLUSIONS OF LAW:

- 1) Policy requires that EAP recipients - who are employed full-time and are considered a one-parent family - to work 128 hours or more per month. Once the participant has chosen the EAP benefit and has signed the participation agreement, the worker must lock in the post-employment period. If the participant reports a reduction in hours or a job loss and no longer meets the requirements, the worker must adjust the months of eligibility to end the EAP benefit. When an Assistance Group has received more cash assistance than it is 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.
- 2) The Claimant was receiving WV WORKS/EAP benefits and signed an agreement in November 2011 to work 128 hours per month. In January 2012, the Claimant failed to work the required 128 hours and was, therefore, no longer eligible for EAP benefits. The Claimant continued to receive EAP benefits to which she was not entitled through April 2012.
- 3) The Department has correctly pursued the repayment of WV WORKS/EAP benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to seek the repayment of \$1,152 in WV WORKS/EAP benefits.

X. RIGHT OF APPEAL:

See Attachment

X. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th Day of September 2012.

**Pamela L. Hinzman
State Hearing Officer**