



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

September 18, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 11, 2012. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for replacement of a lost support services payment 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 payments through the WV WORKS Program is based on current policy and regulations. Some of these regulations state that the support service check is replaced when the check is received by the client, but is stolen, lost or accidentally destroyed before being cashed. There is no specific time frame in which a client must request a replacement. There is no limit on the number of times a client may have a check replaced. The worker completes the DF-36 and the client signs the form. The worker sends the form to Client Accounts, and once Client Accounts determines the check has not been cashed, they will stop payment of the check and issue a replacement. [WV Income Maintenance Manual, Chapter 21.3, D, E, F]

Information submitted at your hearing supports that you lost your April 2011 support service check in the amount of \$550.00 soon after receiving it and prior to redemption. You requested numerous times for the Department to replace the check and the Department did not take action to replace it. The Department was not correct in its action to not replace your lost support service check.

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying your request for replacement of the April 2011 support services check in the amount of \$550.00 through the WV WORKS Program.

Sincerely,

Cheryl A. Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Sam Swisher, [REDACTED] DHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1775

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on September 11, 2012.

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
Sam Swisher, Department representative

Presiding at the hearing was Cheryl A. Henson, 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 replacement of a support services check through the WV WORKS Program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 21.3, D, E, and F, and 24.14, B, D, and F

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Excerpts from Department's computer system regarding Claimant's case, including Case Comments screens and Payment Disbursement screens
- D-2 Excerpts from Department's computer system regarding support payments in the Claimant's case, including Individual Comments

Claimant's Exhibits:

- C-1 Copy of electronic communication with Client Services Office regarding attempts made by Claimant to have support services check replaced
- C-2 Copy of original support services check that was not cashed.

VII. FINDINGS OF FACT:

- 1) The Claimant was a recipient of WV WORKS cash assistance during April 2011 when the Department issued her a check in the amount of \$550.00 as a bonus payment for completing milestones in her goals.
- 2) The Claimant received the check during April 2011; however, she subsequently lost the check when her purse went missing during April 2011 prior to cashing the check.
- 3) The Department's representative, Sam Swisher, stated that the Department is aware that the check was never cashed; however he provided that the Department's position is that it has no way to reissue the check because the timeframe has expired for cashing the original check.
- 4) The Claimant testified that she immediately began contacting the Department after she lost the check to try to obtain a replacement check, but added that she was unsuccessful in doing so. She stated that she had difficulty in getting people to return her calls, and that when someone

returned her telephone call, they would tell her that there was nothing the Department could do to replace the check.

- 5) At some point after more than six months had passed after receipt of the check, someone found the Claimant's purse and returned it to her. She stated that the original check was still in the purse. She continued contacting the Department in an attempt to get the check replaced, but was now told that the check could not be replaced since more than six months had transpired from the date of its issuance. She stated that she was instructed at that point to call the mayor's office and then the State Capitol, as well as the State's Unclaimed Property office. She stated that none of these entities could assist her.
- 6) The Claimant stated that more than once during the timeframe she requested a hearing on the issue and nothing happened. Mr. Swisher states that he does not dispute this claim because the Department was having difficulty with certain aspects of the program at the time, suggesting that the Department may not have been diligent in returning phone calls at times.
- 7) The written evidence supports (D-1) that on or about March 5, 2012, the Claimant contacted the Department about reissuing the support service payment and indicated that she had been speaking with Client Services in an attempt to resolve the issue previously.
- 8) Additional written evidence (C-1) in the form of notes from the Client Services office supports that the Claimant spoke with the Governor's office on January 26, 2011, complaining about the local office not returning her calls, and that Client Services requested that the Department's Coordinator contact the Claimant regarding the situation. Case Comments in the Department's computer system (D-1) do not reflect that this contact occurred.
- 9) Policy in the West Virginia Income Maintenance Manual §24.14, B, General Requirements, provides that misdirected, lost, or stolen checks are handled according to items D, E, and F in this same section. Section D provides that when the Worker discovers that a support service payment has been requested for less than was intended, an additional payment for the difference is requested in RAPIDS (Department's computer system). Section E of this section provides that for any support service check returned to the local office, the Worker must complete an ES-14, attach the check and mail both to the Accounts Receivable, Office of Accounting. The Unit disposes of the check according to the instructions on the ES-14. Section F of this section provides that for support service check and BA-67 replacement procedures – see Section 21.3 for instructions.
- 10) Policy in the West Virginia Income Maintenance Manual §21.3, D, Support Service Check Replacement Procedures, provides the following relevant information:

The following steps are used for Support Service check replacement. Support Service replacement checks are not issued by the Worker.

* Determine that the check was issued by inquiring benefit issuance history in eRAPIDS on Supportive Service Payments Screen under Current AG

Member Summary. The benefits must be in a disposition of issued (IS) and history updated with the actual check number.

* ...the Worker prepares an original and 4 copies of form DF-36, Lost Check Affidavit. When completing the name and address on the DF-36, the information must match the original information in eRAPIDS on the check.

* Have the client read or read to him the DF-36, and explain that he must return the original check if later received or found.

* The client signs the DF-36 in the presence of the Worker. The client's name must be exactly as shown in eRAPIDS. Two witnesses are required if the client signs with an X. Signatures on all copies must be original. The Worker must complete the state, count and date sections of the DF-36.

* The Worker sends the original and two copies of the DF-36 to Client Accounts, 1 Davis Square, Suite 402, Charleston, WV 25301. File a copy of the memorandum and DF-36 in the case record.

* The Worker requests stop payment of the check through eRAPIDS stop payment function. Refer to the eRAPIDS User Guide.

* When Client Accounts determines the check has not been cashed, they will request stop payment of the check and Client Accounts will issue a replacement.

- 11) Policy in the West Virginia Income Maintenance Manual §21.3, Sections E and F, provide the following relevant information:

If the client later receives or finds the original check, he must return it to the local office and endorse it to the Department. The Financial Clerk or designee accepts the check and issues a receipt. There is no specific time frame in which a client must request a replacement. There is no limit on the number of times a client may have a check replaced.

VIII. CONCLUSIONS OF LAW:

- 1) Policy and regulations that govern the WV WORKS Program specify that misdirected, lost, or stolen support services checks may be replaced. There is no specific timeframe designated for individuals to request a replacement support services check, and there is no limit on the number of times a client may have a check replaced. Policy provides specific instructions as to how the Department is to accomplish replacement of support services checks.
- 2) The Claimant's testimony in regard to her numerous attempts to have the Department replace her lost support services check is compelling. It is clear that she made numerous attempts

early-on in an attempt to have the missing check replaced, and the Department did not respond appropriately to these requests.

- 3) As a result of the above findings, the Department is not correct in its decision to deny replacement of the Claimant's April 2011 support services payment.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the action of the Department in its decision to verbally deny the Claimant's request for replacement of her April 2011 support services payment.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th Day of September 2011.

**Cheryl A. Henson
State Hearing Officer**