



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

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D., Ph. D.  
Cabinet Secretary

March 2, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held January 11, 2012. Your hearing request was based on the Department of Health and Human Resources' termination of WV WORKS benefits 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 all minor, dependent, blood-related and adoptive siblings who live in the same household and the parent of the child or children must be included in the WV WORKS assistance group (West Virginia Income Maintenance Manual, Chapter 9.21.A.1).

The information submitted at your hearing revealed that you and your daughter live in the same dwelling. Your opinion that your residence constitutes two separate households has no basis in policy whatsoever. WV WORKS eligibility cannot be established without including your daughter in the assistance group.

It is the decision of the State Hearing Officer to **uphold** the Department's termination of your WV WORKS benefits due to household composition.

Sincerely,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Doyle Ferguson, Family Support Specialist

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

**IN RE:** -----,

**Claimant,**

**v.**

**ACTION NO.: 11-BOR-2346**

**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 concluded on March 2, 2012, 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 11, 2012, on a timely appeal, filed October 24, 2011.

**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

-----, Claimant's daughter/witness

Doyle Ferguson, Department representative

Greg McDowell, Department witness

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 terminate WV WORKS benefits to the Claimant based on household composition.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapter 9.21.A.1

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Case Summary
- D-2 Case Comments screen print
- D-3 Case Comments screen print
- D-4 Case Comments screen print
- D-5 Case Comments screen print
- D-6 Case Comments screen print
- D-7 Case Household Information screen prints for -----
- D-8 Notice of WV WORKS termination, dated October 17, 2011
- D-9 West Virginia Income Maintenance Manual, Chapter 9.21; Scheduling Order; West Virginia Income Maintenance Manual, Chapter 15.2

**VII. FINDINGS OF FACT:**

- 1) Doyle Ferguson, a Family Support Specialist for the Department, testified that the Department notified the Claimant (Exhibit D-8) on or about October 17, 2011, that her WV WORKS benefits would be closed due to household composition – specifically, due to the presence of -----, the mother of the child for whom WV WORKS benefits were intended. This notice states, in pertinent part:

ACTION: Your WV WORKS/WVEAP benefits will stop. You will not receive this benefit after OCTOBER 2011.

REASON: The household's current living situation prevents them from being eligible for this assistance.

- 2) Mr. Ferguson presented case comments screen prints noting -----'s address change (Exhibit D-2) and the Department's discovery that the address was the same as that of the Claimant (Exhibit D-4), her mother. Mr. Ferguson additionally presented screen prints showing -----'s address before and after (Exhibit D-7) the reported change of residence. Mr. Ferguson testified that the more recent address is that of the Claimant. The Claimant and ----- did not dispute this in testimony.

- 3) Greg McDowell, another Family Support Specialist for the Department, testified that he conducted a visit to the Claimant's home and noted two separate entrances, no separate mailboxes, and a stairway inside the home connecting the two floors of the home. He testified that the Claimant appeared to reside on one floor and ----- on the other floor.
- 4) The Claimant testified that she and ----- reside in the building, but consider it to be separate living quarters. She testified that she and ----- did not have separate addresses (e.g., 1229-A and 1229-B), but had separate mailboxes for the two floors of the home.
- 5) ----- testified that she told a Department worker that she and her mother resided in the same house – one upstairs, and one downstairs – and was advised by this worker that as long as each person maintained different cooking areas and their own refrigerators that their arrangement would be “legal.”
- 6) The West Virginia Income Maintenance Manual, Chapter 9.21.A.1, explains who must be included in an assistance group (AG) for WV WORKS, as follows, in pertinent part (emphasis added):

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.

EXAMPLE: Two children who have the same mother but different fathers live with the paternal grandparents of child A. The children are blood-related and would normally be required to be included in the same AG. However, the grandparents of child A are not specified relatives of child B. Therefore, child B is not eligible for WV WORKS.

- **The parent(s) of the child(ren) identified above when the parent(s) lives with the child(ren)**, unless they fall under any of the categories of who may not be included listed in Item 3 of this section.

The Claimant did not assert that she met any exception to this policy, only that she considers her living arrangement with her daughter to constitute separate households.

- 7) It should be noted that although policy for another Department program – the Supplemental Nutrition Assistance Program (SNAP) – may allow some individuals to separate households based on how they purchase and prepare meals, there is no corresponding policy allowance for WV WORKS.
- 8) The West Virginia Income Maintenance Manual, Chapter 13.10, discusses good cause as follows, in pertinent part:

The Worker must determine whether or not the client is meeting the requirements, attempting to comply to the best of his ability, understands the requirements, and the sanction process. The Worker has considerable discretion in imposing a sanction. The Worker may determine that the requirement was inappropriate based upon additional assessment. An appointment to update the PRC and place the individual in another component must be scheduled as soon as possible. In addition, the Worker may determine that not applying a sanction in a particular situation provides more motivation for future participation than the imposition of a sanction. However, once a sanction has been imposed, it cannot be stopped, until the appropriate time has elapsed.

#### **VIII. CONCLUSION OF LAW:**

Policy for the WV WORKS program requires a parent to be included in the same assistance group as their child when they reside in the same household. The Claimant resides in the same dwelling as her daughter and granddaughter – the child for whom WV WORKS benefits are issued. Her daughter is the mother of this granddaughter, and must be included in the same WV WORKS assistance group. The contention of the Claimant and her mother that their shared dwelling constitutes separate households is not supported by policy. Because the Claimant's daughter is not included in the WV WORKS assistance group, the WV WORKS case of the Claimant is invalid and the Department's action to terminate WV WORKS benefits of the Claimant is correct.

#### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate the WV WORKS benefits of the Claimant.

#### **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ Day of March, 2012.**

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**Todd Thornton  
State Hearing Officer**