



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

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

March 23, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held March 22, 2012. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for support services payments 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 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 supports that you requested support services in the form of car repair in the amount of \$1406.76 on October 6, 2011, and informed the Department that you had several job interviews scheduled. You reported on November 2, 2011, that you became employed and verified the employment by no later than December 7, 2011. The Department incorrectly denied your request for car repair assistance.

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying your request for support services in the form of car repair 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 / Tera Pendleton, [REDACTED] DHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-690

**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 March 22, 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
-----, Claimant's witness
Tera Pendleton, Department representative
Kathy Brumfield, Department's witness

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 support services 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 Case comments from Department's computer system dated from January 24, 2012 Through March 19, 2012
- D-2 West Virginia Income Maintenance Manual §24.14
- D-3 Verification Checklist notice dated November 3, 2011
- D-4 Notification letter dated November 18, 2011
- D-5 Case Comments from Department's computer system dated September 2, 2011 Through December 14, 2011
- D-6 Case comments and Activity Summary from Department's computer system

Claimant's Exhibits:

- C-1 Car repair estimate from [REDACTED] LLC, dated October 6, 2011

VII. FINDINGS OF FACT:

- 1) The Claimant was an active recipient of WV WORKS cash assistance during October 2011 when she was interviewed on October 6, 2011, by a Department employee. The Department's case comments (D-5, D-6) support that Claimant was interviewed and her Personal Responsibility Contract (PRC) was updated at that time, and that the Claimant decided to remain in exempt status because she reportedly had a child under the age of one (1) year. There is no mention in the Department's case comments (D-5) of a request from the Claimant for support services during this interview. The Department employee was not available for testimony.

- 2) The written evidence supports (D-5) that on or about November 2, 2011, the Claimant reported to the Department by telephone that she began employment and that she was working twenty (20) hours per week at the rate of \$7.25 per hour for “WV CHOICE.”
- 3) The written evidence (D-3) supports that the Department mailed the Claimant a Verification Checklist on November 3, 2011, requesting that she verify her start date of employment and proof of gross earned income by means of pay stubs and/or an employer statement. The Department requested that this information be provided by November 12, 2011.
- 4) The evidence (D-5) supports that the Claimant either dropped off or mailed the Department two (2) paystubs on November 18, 2011. The Department did not enter the information into its computer system because the information was received after its due date of November 12, 2011, and because no employer statement verifying a start date was received. The Department took action at that time to close the Claimant’s West Virginia Works (WV WORKS) cash assistance case effective December 31, 2011, and sent her a notification letter dated November 18, 2011, which informed her that her case was being closed because her income was excessive. The notice did not inform her that the case was being closed for failure to verify a start date of employment. It is not clear how the Department determined the Claimant’s income was excessive without the full verification of income and start date.
- 5) The evidence (D-5) supports that the Department received a Low Income Energy Assistance Program (LIEAP) application as well as an employer statement from the Claimant on or before December 7, 2011. It is unclear when the verification was actually received by the Department; however, the case comments (D-5) indicate the caseworker worked on the application on December 7, 2011.
- 6) The Department contends that the Claimant requested support services for car repair during January 2012 when she reapplied for WV WORKS cash assistance, and that the Department was unable to approve that request because the Claimant never completed the application process. The Department contends that it has no record of the Claimant requesting car repair prior to January 2012.
- 7) The Claimant testified that she first requested (D-6) support services for car repair on October 6, 2011, when she completed her PRC interview. She stated that she showed the worker an estimate for car repair (C-1) dated October 6, 2011, in the amount of \$1406.76 and that the worker informed her verbally that she was not eligible at that time because she was in exempt status, and that she would be required to be participating in an eligible work activity before support services could be approved. The Claimant stated that she informed the worker that she had several job interviews scheduled at that time and that she expected to be working soon. She also reportedly informed the worker that she still needed to get her vehicle insured and licensed in her name with the Department of Motor Vehicles. She stated that the worker advised her that she should stay in exempt status until she accomplished the vehicle licensing and obtained a job and that she should keep the vehicle estimate until that time. The Claimant also reported trying to reach her worker after she got the job and that she was unable to reach her. She then reportedly contacted Client Services who told her to reapply for WV WORKS in

January rather than advising her of the possibility that she could be eligible for the support service payment since she was active for WV WORKS through December 2011.

The Claimant contends that the Department should have approved her October 6, 2011 request for car repair when she reported the employment shortly thereafter.

The Claimant stated that she again applied for WV WORKS cash assistance during January 2012 in an attempt to secure the car repair support services because someone at the Department advised her to do so and that she requested car repair again at that time and was informed verbally that she was not eligible because she did not complete the January 2012 application process. The Claimant never received a written denial from the Department for either request for car repair.

- 8) Claimant's witness, -----, is her uncle. He stated that he gave the Claimant an older model vehicle and helped her get it licensed and to pay for insurance on the vehicle during October 2011. ----- stated that because the Claimant did not receive assistance from the Department when she requested it during October 2011, it has become necessary for him to loan the Claimant his vehicle for her employment related transportation needs which has caused him a hardship.
- 9) Policy in the West Virginia Income Maintenance Manual §24.14 provides that 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 caseworker and the client during the interview and assessment process and at reviews. The client may also request services as needs arise. Support services may be issued during any month for which a WV WORKS payment is made.
- 10) Policy in the West Virginia Income Maintenance Manual §24.14.B provides the following relevant information regarding "General Requirements":
 - * The amount of the payment is based on the need, but may not exceed the maximum amounts.
 - * The need for a payment must be verified when possible.
 - * A recording must be made in RAPIDS each time a payment is made, explaining the need for the payment and the reason for the amount issued. This comment must include the calculations used to determine the correct payment.
 - * Any payment made to a vendor requires an itemized invoice or written estimate of the charges. The invoice must be on the vendor's invoice form, or on his business letterhead, and is filed in the case record.

* When a request for a support service payment has been made, but no payment is issued, the Worker must notify the client of the denial using form DFA-WVW-NL-2. The Worker must provide a narrative explanation of the reason the payment is denied in terms that are easily understood by the client. The action must be recorded in Work Programs comments.

- 11) Policy in the West Virginia Income Maintenance Manual §24.14.C, ALLOWABLE SUPPORT SERVICE PAYMENTS, provides the following relevant information:

NOTE: The Worker must determine whether or not a need for support services exists. When a need is identified by the Worker, it is the Worker's responsibility to inform the customer regarding what support services are available and to follow through to ensure that the need is met when possible. Under no circumstances must the client be required to identify the specific support service he needs as a condition of receipt. All actions related to support service payments must be recorded in Work Programs comments.

Vehicle Repair

Payment may be made for vehicle repair as follows:

For WV WORKS Activity: College, Community Service Programs, Continued Support Services/Job Retention, CWEP, Education Related to Employment, EIP, Employment, Job Search and Job Readiness, Job Skills Training, JOIN, Other Work Experience Programs, Providing Child Care, GED, Vocational Education Training.

Limitations:

\$2000/Lifetime/AG

Funds must not be used to purchase a vehicle. May be used for state inspection stickers and license plates. The vehicle to be repaired must be titled or leased the State of WV in the name of a Work-Eligible adult included in the household. Any support service payment plus other available resources for repairs must make the vehicle roadworthy.

VIII. CONCLUSIONS OF LAW:

- 1) Policy and regulations that govern the WV WORKS Program specify 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) Policy specifies that support services may be issued during any month for which a WV WORKS payment is made. When a need is identified by the worker, it is the worker's responsibility to inform the customer regarding what support services are available and to follow through to ensure that the need is met when possible. Policy also specifies that employment is a qualifying work activity for receipt of car repair support services.
- 3) The Claimant testified that she expressed a need for car repair on October 6, 2011, when she was interviewed by the Department. She stated that she provided the worker with a copy of a car repair estimate (C-1) that she obtained the morning of the interview and reported that she had several job interviews scheduled during the month. She followed through and reported new employment to the Department on November 2, 2011, and subsequently verified the employment by no later than December 7, 2011.
- 4) While the Department did not document in its records that the Claimant had presented a car repair estimate and requested a support service payment during October 2011, the Claimant's testimony that she made such a request is found to be credible and is supported by the car repair estimate (C-1) which is dated the same date as her interview with the Department. The Claimant received a WV WORKS payment during November and December 2011 while she was also employed. The Department did not follow through once verification of the employment was received in December 2011 to ensure that the Claimant's car repair need was met.
- 5) Policy specifies that when a request for a support service payment has been made, but no payment is issued, the worker must notify the client of the denial using form DFA-WVW-NL-2. The worker must provide a narrative explanation as to the reason the payment is denied in terms that are easily understood by the client, and the action must be recorded in Work Programs comments. The evidence shows the Claimant requested support services for car repair on October 6, 2011 as well as again during January 2011. The Department did not notify the Claimant of any denial per policy specifications, and did not record the circumstances of their action in Work Programs comments.
- 6) The Claimant's WV WORKS cash assistance case did not close until December 31, 2011. The Claimant reported employment on November 2, 2011 - which is a qualifying activity for receipt of car repair - and provided verification of employment in the form of pay stubs as well as an employer statement to the Department by no later than December 7, 2011, while her case was still active. The Claimant clearly met the criteria for receipt of car repair assistance while her case was still active. She should not be penalized because the Department did not document her request for car repair in October 2011 and be required to make a second request.
- 7) As a result of the above findings, the Claimant has met the requirement for being in a qualifying activity for receipt of car repair prior to the end of her WV WORKS cash assistance eligibility, and having previously provided the Department with the necessary information regarding the car repair estimate, has fulfilled her obligation in the matter.
- 8) The Department was not correct in its decision to deny the Claimant's request for car repair.

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 car repair requested on October 6, 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 23rd Day of March, 2012.

**Cheryl A. Henson
State Hearing Officer**