



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

Earl Ray Tomblin  
Governor

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

April 26, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held April 19, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to pursue a repayment of WV WORKS benefits against you.

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. These regulations provide 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 (WV Income Maintenance Manual § 20.3).

The information submitted at your hearing revealed that your income was excessive for you to receive WV WORKS benefits from November 2011 through January 2012 and are required to repay those benefits.

It is the decision of the State Hearing Officer to **Uphold** the proposal of the Department to pursue a repayment of WV WORKS benefits against you.

Sincerely,

Kristi Logan  
State Hearing Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Vickie Adkins, Repayment Investigator

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

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

**Respondent**

**v.**

**ACTION NO.: 12-BOR-982**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Movant**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on April 19, 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 a timely appeal, filed March 21, 2012.

**II. PROGRAM PURPOSE:**

The program entitled WV WORKS is administered by the West Virginia Department of Health and Human Resources.

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:**

---- ----, Respondent  
Vickie Adkins, Repayment Investigator

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not Respondent should be responsible for a repayment of WV WORKS benefits.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 1.2 E, 10.3 DDD, 10.24 C and Appendix A, 20.3

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

**Department's Exhibits:**

- D-1 Benefit Recovery Referral Screen (BVRF) from RAPIDS Computer System
- D-2 Combined Application and Review Form dated June 13, 2011
- D-3 Rights and Responsibilities Form dated June 13, 2011
- D-4 Hearing Request received March 21, 2012
- D-5 Case Comments (CMCC) from RAPIDS Computer System
- D-6 Unearned Income Screen (AFUI) from RAPIDS Computer System
- D-7 WV Income Maintenance Manual § 1.2 E
- D-8 WV Income Maintenance Manual § 10.3 GGG and 10.3 DDD
- D-9 WV Income Maintenance Manual § 20.3

**Respondent's Exhibits:**

- R-1 Award Letters from Social Security Administration

**VII. FINDINGS OF FACT:**

- 1) Respondent started receiving WV WORKS benefits in June 2011. Respondent reported the onset of SSI income to her caseworker in September 2011 (D-5). Respondent continued to receive WV WORKS benefits based on the information provided.
- 2) The Department discovered Respondent started receiving Social Security Disability along with the SSI as reported. Respondent's WV WORKS benefits were terminated effective February 2012 due to excessive income (D-5).
- 3) Vickie Adkins, Repayment Investigator, testified that she verified with the Social Security Administration that Respondent received a lump sum Social Security Disability retroactive payment in the amount of \$919.25 in September 2011. Ms. Adkins stated Respondent's ongoing amount of \$546 was issued effective October 2011 (D-6).

Ms. Adkins stated Respondent's Social Security income exceeded the allowable limit for her to receive WV WORKS benefits (D-6). The Department is requesting Respondent repay the Department for the overpayment of \$786 in WV WORKS benefits issued from November 2011 through January 2012.

4) Respondent testified that she reported her income as she was required and provided verifications to her caseworker (R-1). Respondent stated her caseworker told her the onset of her Social Security benefits would not affect her daughter's eligibility for WV WORKS. Respondent stated she should not be required to repay benefits when she did not withhold any information from the Department and because her caseworker made a mistake.

5) WV Income Maintenance Manual § 1.2 E states:

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility. When the client is not able to provide the required verification, the Worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in one or more of the following actions:

- Denial of the application
- Closure of the active AG [assistance group]
- Removal of the individual from the AG
- Repayment of benefits
- Reduction in benefits

6) WV Income Maintenance Manual § 10.3 DDDD states:

Social Security Payments: Unearned income for WV WORKS

7) WV Income Maintenance Manual § 10.24 C(5) states:

To determine eligibility for WV WORKS, the total gross non-excluded income of the AG is compared to the maximum WV WORKS benefit amount for the size of the AG. If the total gross income exceeds the maximum WV WORKS benefit, the AG is ineligible.

8) WV Income Maintenance Manual Chapter 10 Appendix A states:

WV WORKS Payment for an AG of one (1): \$262

9) WV Income Maintenance Manual § 20.3 states:

When an AG 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 AG was entitled.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy stipulates that when an overpayment of cash assistance has occurred, regardless of who made the error, corrective action is taken to recoup the overpaid amount.
- 2) Respondent started receiving regular payments of Social Security Disability of \$546 monthly effective October 2011. This income exceeded the allowable income limit of \$262 for Respondent to continue receiving WV WORKS benefits.
- 3) Respondent was ineligible to receive WV WORKS from November 2011 through January 2012 due to excessive income. Respondent is required to repay WV WORKS benefits issued for which she was not entitled.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to pursue a repayment of WV WORKS benefits against Respondent.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 26<sup>th</sup> day of April 2012**

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**Kristi Logan  
State Hearing Officer**