



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 West Washington Street
Charleston, West Virginia 25313
E-mail Address: raywoods@wvdhhr.org

Joe Manchin III
Governor

March 7, 2005



Dear Ms. [REDACTED]:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 14, 2004. Your hearing request was based on the Department of Health and Human Resources' proposal to establish and seek collection of a West Virginia Works cash assistance claim.

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 West Virginia Works Program is based on current policy and regulations. Some of these regulations state that when an assistance group has been issued 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. (West Virginia Income Maintenance Manual Section 20.3).

Information provided by the Department during the hearing did not reveal sufficient evidence that you were overpaid WV Works benefits as the result of failure to report information regarding household composition.

It is the decision of the State Hearing Officer to REVERSE the proposal of the Agency to seek collection of the West Virginia Works claim.

Sincerely,

Ray B. Woods, Jr., M.L.S.
State Hearing Officer
Member, State Board of Review

cc: Board of Review
Marshall Daniels, Repayment Investigator

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

NAME:
ADDRESS:



I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on March 7, 2005 for [REDACTED]. 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 September 14, 2004 on a timely appeal filed June 15, 2004.

It should be noted here that recoupment under the West Virginia Works Program has been suspended through this hearing process.

All persons giving testimony were placed under oath.

II. PROGRAM PURPOSE:

The program entitled West Virginia Works is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

WV WORKS was created by Senate Bill 140 Article 9 of the West Virginia Code and the Temporary Assistance to Needy Families Block Grant, Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The purpose of WV Works is to provide assistance to needy families with children so they can be cared for in their own home, reduce dependency by promoting job preparation, work and marriage. 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 the assistance programs to emphasize employment and personal responsibility.

III. PARTICIPANTS:

[REDACTED], Claimant
Marshall Daniels, Repayment Investigator
Rhonda McKown, Repayment Investigator, observing

Presiding at the hearing was Ray B. Woods, Jr., M.L.S., 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 took correct action to establish and seek repayment of a West Virginia Works overpayment.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section 20.3
WVDHHR Common Chapters Manual Chapter 700

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

- D-1 Copy of Rapids repayment referral screen
- D-2 DHS-1 referral form
- D-3 IFM FEFU-1 form
- D-4 IFM-4B.FEFU form
- D-5 Cash Assistance Claim Determination form and grant determination calculation sheets
- D-6 WV Income Maintenance Manual Section 20.3
- D-7 Notification of overpayment dated June 14, 2004
- D-8 Rapids case comments

VII. FINDINGS OF FACT:

1. Mr. Daniels stated a repayment referral (D-1) was made based on information that [REDACTED] had resided in the Claimant's household since October 2002.
2. A referral was made to the Front-End Fraud Unit for investigation. However, the Claimant objected to the use of statements obtained through that investigation under the hearsay evidence rule so the material was not considered in the hearing decision.
3. Mr. Daniels contended that the Claimant was overpaid \$104 in WV Works benefits for the months of January 2004 through March 2004 and notification of the overpayment (D-7) was sent to the Claimant on June 14, 2004. Mr. Daniels testified that he had a discussion with [REDACTED] in June 2004 concerning the overpayment.

VIII. CONCLUSIONS OF LAW

1. WV Income Maintenance Manual Section 20.3 states, in part:

When the 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.
2. WV DHHR Common Chapters Manual Chapter 700 indicates that hearsay evidence is information presented by a witness regarding a statement made by another person who is not

present at the hearing for cross-examination. Sections 708 C and D of this manual state, in part,:

When a claimant is not represented by Counsel, the State Hearing Officer must make a special effort to insure that the claimant understands the issues and procedures involved in the hearing. The State Hearing Officer must explain the hearsay rule to an unrepresented claimant and must allow the claimant an opportunity to object to the introduction of statements, written or otherwise, of persons of whom there is not opportunity to confront or cross-examine.

The State Hearing Officer shall weigh the evidence and testimony presented and render a decision based solely on proper evidence given at the hearing.

IX. DECISION:

Information presented during the hearing failed to provide sufficient evidence that the Claimant received an overpayment as a result of failure to report accurate household composition.

Therefore, after reviewing the applicable policy and regulations, it is the decision of the State Hearing Officer to REVERSE the Agency's proposal to seek repayment of West Virginia Works benefits for the period of January 2004 through March 2004.

X. RIGHT OF APPEAL

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29