



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P. O. Box 2590  
Fairmont, WV 26555

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

July 7, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 23, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to establish and seek collection of a cash assistance repayment claim against your household.

In arriving at a decision, the State Hearings 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 Cash Assistance, WV Works, is based on current policy and regulations. Some of these regulations state that when an AG (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 AG was entitled {West Virginia Income Maintenance Manual §20.3}

The information submitted at your hearing fails to demonstrate that you were not eligible to receive WV WORKS (cash assistance) in December 2005 and January 2006.

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to establish and seek collection of a WV WORKS cash assistance repayment claim in the amount of \$561.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Marshall E. Daniels, SRI  
[REDACTED]

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

\_\_\_\_\_,  
**Claimant,**

**v.**

**Action Number: 06-BOR-1280**

**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 July 7, 2006 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 May 23, 2006 on a timely appeal filed February 28, 2006.

**II. PROGRAM PURPOSE:**

The Program entitled WV Works is \_\_\_\_\_ up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & 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 dependence on public programs by promoting self-sufficiency and structure the assistance programs to emphasize employment and personal responsibility.

### **III. PARTICIPANTS:**

, Claimant

Attorney at Law, Counsel for the Claimant  
Marshall E. Daniels, State Repayment Investigator, DHHR

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

### **IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether the Agency was correct in their actions to establish and collect an overpayment of WV Works, cash assistance.

### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Policy §§8.6 & 20.3

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

#### **Department's Exhibits:**

DHS-1	Repayment Referral dated 12/23/05
DHS-2	Cash assistance amounts paid to _____ for December 2005 and January 2006 through the State of West Virginia
DHS-3	RAPIDS case information Printed on 12/8/05 (page 4).
DHS-4	RAPIDS case information printed 12/8/05 (page 5).
DHS-5	Correspondence from Marshall Daniels dated 2/28/06
DHS-6	CIS Cash Medical Assistance Transcript for 11/05 to 2/06
DHS-7	List of individuals reportedly included in the case in _____
DHS-8	Cash Assistance Claim Determination for December 2005 & January 2006
DHS-9	WVIMM, Chapter §8.6 (Non-Duplication of Benefits)
DHS-10	Notification of Cash Assistance and/or School Clothing Allowance Overpayment dated 2/14/06
DHS-11	Page 8 of the Rights and Responsibilities signed by the Claimant on 12/8/05

#### **Claimant's Exhibits:**

C-1	Notarized statement from _____ dated 11/8/05
C-2a,b&c	Temporary Guardianship Authorization for Care of Minor (for _____) – signed and notarized on 11/17/05
C-3a,b&c	Temporary Guardianship Authorization for Care of Minor (for _____) – signed and notarized on 11/17/05
C-4a,b&c	Temporary guardianship Authorization for care of Minor (for _____ Foutty) – signed and notarized on 11/17/05

C-5a,b&c      Consent for the Claimant to authorize medical or dental procedures (care and treatment) for \_\_\_\_\_ and \_\_\_\_\_ - signed 11/17/05

## VII. FINDINGS OF FACT:

- 1) On or about February 16, 2006, the Claimant was notified via a Notification of Cash Assistance and/or School Clothing Allowance Overpayment (DHS-10) of a \$561 cash assistance overpayment during the period 12/05/05 to 1/31/06. Page 2 of this exhibit includes a note at the bottom which states – “WV WORKS payments were issued for \_\_\_\_\_ and \_\_\_\_\_ when both children had a active cash assistance case in the State of Pennsylvania for December 2005 and January 2006.”
- 2) The Department submitted exhibits DHS-2 to show that the Claimant received cash benefits in the State of West Virginia for \_\_\_\_\_ and \_\_\_\_\_ in December 2005 and January 2006.
- 3) The Department submitted Exhibit DHS-3 and DHS-4 to show that \_\_\_\_\_ and \_\_\_\_\_ were included in the WV WORKS cash assistance benefits issued by the State of West Virginia and that the Claimant reported that \_\_\_\_\_ and \_\_\_\_\_ were not receiving cash assistance benefits from another state. It should be noted that the Department did not allege or present any evidence to indicate that the Claimant was intentionally misrepresented her circumstance.
- 4) When the Department’s repayment unit was notified that children included in the Claimant’s cash assistance case were reportedly included in a cash assistance case in \_\_\_\_\_ (DHS-1), the Department requested information from the \_\_\_\_\_ Health & Human Services office on February 28, 2006 (DHS-5) and received DHS-6 which reportedly shows cash assistance disbursed from the State of \_\_\_\_\_ for \_\_\_\_\_ and \_\_\_\_\_ during the months of December 2005 and January 2006. However, it was noted by Counsel for the Claimant that Exhibit DHS-5 does not have any markings to identify it as an official government document and it fails to include information regarding what the benefit is or for whom the benefit was paid.
- 5) Exhibit DHS-7 is an untitled document that is reported to be the list of individuals who are included in the cash assistance case in \_\_\_\_\_. It should be noted that the names of \_\_\_\_\_ and \_\_\_\_\_ appear on this document, however, this document is not dated, it does not have any governmental agency markings, and the purpose of the document is not included.
- 6) The Department submitted Exhibit DHS-8, Cash Assistance Claim Determination, to show how the repayment amount was calculated. According to the Department, the Claimant was not entitled to receive cash assistance for \_\_\_\_\_ and \_\_\_\_\_ in December 2005 (\$260) and January 2006 (\$301). As a result, the Department is seeking repayment of cash assistance in the amount of \$561.

- 7) The evidence submitted on behalf of the Claimant, exhibits C-1 through C-5c, verifies that the Claimant had temporary guardianship of the two children in question effective November 17, 2005.
- 8) West Virginia Income Maintenance Manual, Chapter 8.6 (Non-duplication of Benefits) states that a client may not receive Food Stamp benefits, WV WORKS or Medicaid concurrently in more than one county in West Virginia or more than one state. In addition, he may not receive different types of benefits in more than one county or state at the same time. The possibility of intentional misrepresentation must be explored when it is discovered that the client is receiving benefits of any type in more than one county at the same time. See Common Chapters Manual for procedures involving misrepresentation.
- 9) West Virginia Income Maintenance Manual, Chapter 20.3 states that repayment is pursued for cash assistance overpayments made in the WV WORKS Program. Policy goes on to say 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. The policy by which cash assistance claims are referred, established, collected and maintained follows.
- 10) West Virginia Department of Health and Human Resources, Common Chapters Manual, 780.D states that the State Hearing Officer shall weigh the evidence and testimony presented and render a decision based solely on proper evidence given at the hearing.
- 11) West Virginia Department of Health and Human Resources, Common Chapters Manual, Chapter 780.D.1 states that if the policy was misapplied or other incorrect decision was made, the State Hearing Officer will reverse.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) The policy that governs the WV WORKS Program provides guidelines regarding the Non-duplication of benefits. This policy prohibits an individual from receiving WV WORKS (cash assistance benefits) simultaneously from another state.
- 2) In this case, the Department contends that cash assistance benefits were paid on behalf of \_\_\_\_\_ and \_\_\_\_\_ by the State of \_\_\_\_\_ and West Virginia for the months of December 2005 and January 2006. While the Department is not alleging that the Claimant committed any fraudulent acts to secure benefits, the Department has proposed repayment of cash assistance in the amount of \$561 due to the duplication of benefits.

- 3) The evidence submitted at the hearing, however, verifies that the Claimant had guardianship of the two children for which benefits were duplicated. While WV WORKS policy prohibits the duplication of cash benefits, policy is not intended to penalize an otherwise eligible caretaker relative who clearly had guardianship of the children in question. Based on the evidence, it would appear that the State of [REDACTED] should review their records to determine if repayment should be pursued.

**IX. DECISION:**

After reviewing the evidence and the applicable policy and regulations, it is the decision of the State Hearing Officer to **reverse** the proposal of the Department to establish and seek collection of a WV WORKS cash assistance repayment claim in the amount of \$561.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 7th Day of July, 2006.**

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**Thomas E. Arnett**  
**State Hearing Officer**