



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
PO Box 6165
Wheeling, WV 26003

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

December 11, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 6, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your assistance check under the WV Works Program due to your receipt of a monthly HUD utility assistance check.

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 income received from HUD (Housing and Development) is counted as unearned income when the HUD supplement is paid directly to the client. (WV Income Maintenance Manual section 10.3 MM).

The information which was submitted at the hearing revealed that beginning in August 2007 you were approved for a monthly HUD utility allowance check in the amount of \$111.00.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to decrease your assistance check under the WV Works Program by \$111.00. This results in your monthly WV WORKS check being reduced to \$190 as proposed by the agency.

Sincerely,

Melissa Hastings
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
DeBee, DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-2289

**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 December 6, 2007 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 December 6, 2007 on a timely appeal filed October 15, 2007.

II. PROGRAM PURPOSE:

The program entitled WV Works is set 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
Nancy DeBee, FSS, DHHR

Presiding at the hearing was Melissa Hastings, 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 Department correctly proposed a reduction in the Claimant's WV WORKS check as a result of receipt of a monthly HUD utility supplement.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 10.3 and 10.24.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Contract from the Housing Authority of the City of [REDACTED] signed August 1, 2007
- D-2 WV Income Maintenance Manual Section 10.3 MM
- D-3 WV Income Maintenance Manual Section 10.24
- D-4 Notice of Decision dated October 16, 2007

Claimant's Exhibits:

None.

VII. FINDINGS OF FACT:

- 1) The Claimant signed a contract with the Housing Authority of the City of [REDACTED] on August 1, 2007 (D1) which indicates Claimant's monthly rent obligation of \$300 per month would be paid by HUD. In addition the contract indicates Claimant will receive a utility allowance in the amount of \$111.00.
- 2) WV Income Maintenance Manual section 10.3 MM (D2) indicates the following:

A rent or utility supplement paid directly to the client is counted as unearned income for the WV WORKS Program.
- 4) WV Income Maintenance Manual section 10.24 (D3) indicates the following:

Determining Countable Income

Once the 100% of Need test is met, the following steps are taken.

- Step 1: Add together the non-excluded gross earned income of the AG and any disqualified person(s).
- Step 2: Subtract the Earned Income Disregard, i.e., 40% of the earnings
- Step 3: Subtract the Dependent Care Deduction for each person who pays dependent care.
- Step 4: Add the non-excluded unearned income of the AG and Any disqualified person(s). The resulting amount is the countable income.
- Step 5: Determine the maximum WV WORKS benefit amount for the AG size, using Appendix A.
- Step 6: If the amount arrived at in Step 4 equals or exceeds the amount in Step 5, the AG is ineligible. If the amount arrived at in Step 4 is less than the amount in Step 5, the AG is income eligible and the amount from Step 4 is subtracted from the amount in Step 5.

- 5) A Notice of Decision was issued to the Claimant dated 10-16-07 (D4) stating:

Action: Your WV WORKS will decrease from \$301.00 to \$190.00 effective 11/01/07

Reason: Your income has increased.

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires that income received in the form of a monthly HUD utility supplement must be counted as unearned income when determining WV WORKS eligibility if the HUD utility supplement is paid directly to the client.
- 2) Evidence reveals Claimant entered into a contract with the Housing Authority of the City of [REDACTED] on August 1, 2007 in which she agreed to receive assistance on her rent as well as a monthly utility allowance supplement in the amount of \$111.00.
- 3) Once notified, the Family Support Specialist accurately applied policy regarding this source of income and its effect on Claimant's eligibility. The result of the application of policy listed in WV Income Manual sections 10.3 and 10.24 was that Claimant's WV WORKS check was reduced from \$301.00 to \$190.00.

- 4) Adequate notice was provided to the Claimant of this required change in benefits on October 16, 2007.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to reduce the Claimant's WV WORKS check from \$301.00 to \$190.00.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 11 Day of December, 2007

Melissa Hastings
State Hearing Officer