



**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

August 4, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 26, 2011. 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 demonstrates that the Department is obligated to and did not assist you by providing needed supportive services during the months of July 2010 and August 2010 as required by policy.

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying your request for support services through the WV WORKS Program. The Claimant's sixty (60) month time limit will be reset to allow for September 2011 and October 2011 to be the Claimant's fifty-ninth (59th) and sixtieth (60th) month, respectively. The Claimant will have the right to apply for WV WORKS cash assistance during those months and if found to meet all other eligibility requirements, the Department is required to negotiate a new Personal Responsibility Contract (PRC) with her that outlines all the supportive services needed by her. The Department is required to either approve or deny the requests for supportive services, issuing proper notice to the Claimant in the event of a denial with a clear explanation as to why the requests were denied. The Claimant will have two months, that being September 2011 and October 2011, in which to request supportive services from the Department. The Department will act according to policy in responding to those requests.

Sincerely,

Cheryl A. Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Michele Harper, [REDACTED] DHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-1289

**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 the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on July 26, 2011.

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
Michele Harper, Department Representative

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 during her 59th and 60th month of eligibility.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 24.14

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV Income Maintenance Manual Section 24.3, twelve (12) pages
- D-2 Case comments from Department's computer system dated June 16 and 22, 2010, one (1) page
- D-3 Timesheet for July 2010 participation in work program, one (1) page
- D-4 WV WORKS Personal Responsibility Contract signed June 22, 2010, two (2) pages – front and back
- D-5 Case comments from Department's computer system dated from June 15, 2010 through November 11, 2010, and computer printouts from Department's computer system, total of eight (8) pages

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was an active recipient of WV WORKS cash assistance and a participant in the WV WORKS work program who was nearing the end of her sixty (60) month lifetime limit for receipt of those benefits during the month of June 2010, when she contends that she requested on several occasions to receive supportive services that were never received. She also contends that the Department authorized the vouchers in its computer system but never delivered them to her for use, later destroying them. She stated she was never notified by the Department that the support payments were denied or why.
- 2) The Claimant states that during June 2010 the Department informed her of all the supportive services available to her, and that as a result she requested supportive services for furniture, clothing, software for school, and car insurance during the month of June 2010. She states she also asked for dental and vision referrals because she is a diabetic. She stated she never

received any of those requested services. She stated that she provided everything the Department asked for in the form of verification, but never received the services or a denial notice from the Department. She stated that she later was contacted by telephone by the Department and that a worker asked her if she had received vouchers to [REDACTED], and [REDACTED] for the furniture, software and clothing she had requested. She stated she told the worker that she had not yet received them, and asked if she could come to the Department's office and pick them up. She added that the worker told her the vouchers were in the computer system but that they were being destroyed since they were more than ninety (90) days old.

- 3) The Department's representative, Michele Harper, is an Income Maintenance Specialist working in the Kanawha Department of Health and Human Resources' office in [REDACTED] West Virginia. Ms. Harper stated that the Department's position is that the Defendant never asked for many of the support services in question. She stated that the Department's records do not show that the Claimant ever requested help with furniture, software, or car insurance, and that she never requested dental and vision referrals. The Department presented evidence (D-5) which shows that case comments made on June 28, 2010 in its computer system show that the Claimant requested help with clothing at that time, but that because she was only eligible for one hundred fifty dollars (\$150.00) at the time, she decided to wait. The comments also provide that the Claimant had a job interview scheduled during July 2010 and that she planned to wait until then and apply for help with clothing.
- 4) Additional evidence (D-5) shows that case comments were entered into the Department's computer system on September 16, 2010 which provide that an employee spoke with the Claimant regarding "ARRA money" and that the Claimant wanted to purchase household furnishings. The recording documents that the Claimant was advised that she was no longer eligible because she had reached her sixty (60) month lifetime limit during July 2010. This shows that the Department had a conversation with the Claimant during September 2010 in which it informed her that it was too late to apply for supportive services.
- 5) Additional evidence (D-5) in the form of individual case comments from the Work Programs component of the Department's computer system show that on June 25, 2010 Ms. Harper documented that the Claimant had never used her support services, and that she was requesting support services for clothing, car repair, dressers and a bed for her son, and automobile insurance. She documented that she also requested help with dental services. Ms. Harper also documented at this time that she was submitting payments for the clothing need. This evidence supports the Claimant's testimony that she requested support services for clothing, furniture, and automobile insurance. It does not support the Department's position that those payments were never requested by the Claimant.
- 6) Additional evidence (D-5) in the form of a Work Programs Payment Summary screen from the Department's work programs computer system shows that payments were cancelled to [REDACTED] in the amount of two hundred fifty dollars (\$250.00), [REDACTED] - [REDACTED] Furniture in the amount of one thousand seven hundred fifty dollars (\$1750.00), and to [REDACTED] - [REDACTED] in the amount of eight hundred dollars (\$800.00). The payment request date for all these payments is listed as August 24, 2010. No further explanation is provided by the

Department to explain these cancellations. This evidence corroborates the Claimant's testimony that she was notified of vouchers in the Department's computer systems that were not used. It does not support the Department's contention that these payments were never requested. Although the payment request date of August 24, 2010 is after the Claimant lost her eligibility for services, there is no explanation provided as to why these payments would have been entered by the Department.

- 7) Additional evidence (D-4) in the form of a Personal Responsibility Contract (PRC) completed on June 22, 2010 between the Department and the Claimant shows that the Department identified numerous barriers to employment for the Claimant. Those barriers are listed as transportation, vehicle insurance, clothing and car repair. This evidence supports the Claimant's contention that she requested support payments for clothing and vehicle insurance. It does not support the Department's contention that those payments were not requested by the Claimant.
- 8) 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 Case Worker 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.
- 9) 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.

- 10) Policy in the West Virginia Income Maintenance Manual §24.14.C provides the following relevant information:

The maximum payment for clothing is one thousand dollars (\$1000.00) in a lifetime.

The maximum payment for vehicle insurance is one thousand dollars (\$1000.00) in a lifetime. The payment for vehicle insurance is limited to the state minimum liability, with uninsured motorist and underinsured motorist coverage, and is limited to a three (3) month coverage increment.

The maximum payment for the WV WORKS Emergency Assistance Payment is five thousand dollars (\$5000.00) and covers rent/mortgage payments and deposits, utility disconnects and deposits, household furnishings and supplies, and emergency transportation.

VIII. CONCLUSIONS OF LAW:

- 1) Policy and regulations that govern the WV WORKS Program state 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 also provides that the amount of the payment is based on the need, but may not exceed the maximum allowed amounts. The need for a payment must be verified when possible. 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.
- 3) The Claimant contends she requested supportive services during June 2010 for clothing, software, furniture and car insurance which were never addressed. She also contends she requested vision and dental referrals.
- 4) Evidence in this case supports that the Claimant requested supportive service payments for clothing, furniture, and automobile insurance during the month of June 2010 which is one month prior to the expiration of her sixty (60) month lifetime limit for receipt of WV WORKS cash assistance.
- 5) The Department entered payments into its computer system for furniture to [REDACTED] Furniture in the amount of one thousand seven hundred fifty dollars (\$1750.00) which was later cancelled with no explanation. The Claimant's testimony that she submitted the required documentation for the payment is found to be credible. The written evidence shows

(D-5) that the Claimant requested this support service on June 25, 2010. The Department's contention that the request never occurred is not supported by the evidence.

- 6) The Department entered payments into its computer system for clothing to [REDACTED]—[REDACTED] in the amount of eight hundred dollars (\$800.00) which was later cancelled with no explanation. The Claimant's testimony that she submitted the required documentation for the payment is found to be credible. The written evidence shows (D-5) that the Claimant requested this support service on June 25, 2010. The Department's contention that the request never occurred is not supported by the evidence.
- 7) Although the Department did not enter a payment into its computer system for automobile insurance, the Department documented this request and there is no documentation to show it ever acted on the request. The evidence shows (D-5) that the Claimant requested this support service on June 25, 2010 and on June 22, 2010 (D-4). The Claimant's testimony that she provided the requested documentation for this payment is found to be credible. The Department's contention that the request never occurred is not supported by the evidence.
- 8) The evidence also supports that the Claimant requested a dental referral. The evidence shows (D-4 and D-5) that the Claimant requested this support service on June 22, 2010 and again on June 25, 2010. The Department did not provide the Claimant with a referral for dental needs, and its contention that this request never occurred is not supported by the evidence. .
- 9) The Department's records and documentation in regard to these support service requests and any decisions made as a result of the requests is inadequate and incomplete and not according to policy. The Claimant was also not properly notified of any decision regarding the requests for supportive services.
- 10) There is insufficient evidence to support that the Claimant requested a supportive service for software and a vision referral. Although the Claimant testified that she requested these services, there is no written evidence in support of it.
- 11) The Department was not correct in its decision that requests for supportive services for clothing, furniture, auto insurance and dental were never made by the Claimant during a timeframe when she was receiving WV WORKS cash assistance.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the action of the Department in its decision that requests for support services for clothing, furniture, auto insurance and dental needs were never made. The Department did not provide the supportive services that were needed to assist the Claimant in becoming self-sufficient at the end of her sixty (60) month lifetime limit for receipt of WV WORKS cash assistance; therefore, the time limit will be reset to allow for September 2011 and October 2011 to be considered the Claimant's fifty-ninth (59th) and sixtieth (60th) months, respectively, for receipt of WV WORKS cash assistance. The Claimant will have the right to apply for WV WORKS cash assistance during those two months, and if she is found to meet all other eligibility requirements for the

program, the Department will negotiate a PRC with her, identifying all supportive services of which she is in need. The Department will then make a decision on those requests, documenting each step of the process, and notify the Claimant of its decision in clear and easily understood terms. The Claimant will have new appeal rights based on the Department's decision.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 4th Day of August, 2011.

**Cheryl A. Henson
State Hearing Officer**