



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

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

August 29, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 16, 2011. Your hearing request was based on the Department of Health and Human Resources' establishment of a WV WORKS repayment claim due to the onset of income.

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.

The establishment of WV WORKS repayment claims is based on current policy and regulations. Some of these regulations state that when a WV WORKS assistance group (AG) has received more cash assistance than it was entitled to receive, corrective action is taken by establishing a claim for the overpayment (West Virginia Income Maintenance Manual, Chapter 20.3). Additionally, by policy, WV WORKS recipients must report changes in income (West Virginia Income Maintenance Manual, Chapter 2.17.B)

The information submitted at your hearing revealed that there was income not counted in the calculation of your WV WORKS benefits, and the resulting overpayment claim was correctly calculated and classified.

It is the decision of the State Hearing Officer to **uphold** the Department's establishment of a WV WORKS overpayment claim.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Cassandra Burns, Department Representative

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

IN RE: -----,

Respondent,

v.

ACTION NO.: 11-BOR-1304

**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 August 29, 2011, 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 August 16, 2011 on a timely appeal, filed June 6, 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:

-----, Respondent
Cassandra Burns, Department Representative

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

All persons offering testimony were placed under oath.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department correctly established a WV WORKS overpayment claim against the Respondent.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 20.3; Chapter 2.17

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing/Grievance Request Notification form
- D-2 Overpayment notification dated May 24, 2011
- D-3 Cash Assistance Claim Determination form; documentation to support claim calculations
- D-4 Income verification
- D-5 West Virginia Income Maintenance Manual, Chapter 2.17
- D-6 West Virginia Income Maintenance Manual, Chapter 20.3

VII. FINDINGS OF FACT:

- 1) Cassandra Burns, representative for the Department's Investigations and Fraud Management (IFM) unit, testified that from November 2010 through January 2011 the Respondent received WV WORKS benefits and Social Security income that had recently restarted but was not reported or counted in the WV WORKS benefit calculations. This resulted in an overpayment of WV WORKS, and a repayment claim was established against the Respondent. The May 24, 2011 claim notification (Exhibit D-2) to the Respondent states, in pertinent part:

We have determined that you were paid \$786.00 more cash benefits than you were eligible to receive during the period 11/01/10 to 01/31/11. This CLIENT ERROR claim was caused by UNEARNED INCOME.

- 2) Income verification (Exhibit D-4) presented by the Department shows the Respondent received monthly Social Security income of \$647.50, and that the Department verified the first check – after a suspension of payments – was received in September 2010, and determined the first effective month for repayment purposes to be November 2010.

- 3) The calculation documentation (Exhibit D-3) shows that the Department determined, for all months from November 2010 through January 2011, that the Respondent received \$262.00 in WV WORKS benefits but was not eligible during that period due to the Social Security income (\$647.50) that exceeded the monthly WV WORKS amount. The repayment was calculated as the entire issuance for the three month period, or \$786.00.
- 4) The Respondent had no dispute of the WV WORKS repayment claim calculations. She testified that her mother was the payee for her Social Security benefits, but not for her WV WORKS benefits, and that she did not report the onset of Social Security income because she was unaware of it.
- 5) The West Virginia Income Maintenance Manual, Chapter 20.3, explains cash assistance claims and repayment procedures as follows, in pertinent part:

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.
- 6) The West Virginia Income Maintenance Manual, Chapter 2.17.B, outlines reporting requirements for WV WORKS cases, and states, in pertinent part, "All changes in income, assets, household composition and other circumstances must be reported."

VIII. CONCLUSION OF LAW:

Policy for the WV WORKS program requires corrective action to be taken through the establishment of overpayment claims when benefits are received by ineligible households. Evidence and testimony from both parties confirmed that the Respondent received income that was not counted in the calculation of her WV WORKS benefits. This income caused the Respondent to be totally ineligible for the \$786.00 in WV WORKS benefits received during the claim period of November 2010 through January 2011. Policy dictates that the Respondent was responsible for reporting income changes, and reveals no exception for a situation in which another individual is the payee for an income source in the Respondent's household. The Department was correct to establish a \$786.00 WV WORKS overpayment claim against the Respondent.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department to establish a WV WORKS overpayment claim, in the amount of \$786.00, against the Respondent.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Respondent's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of August, 2011.

**Todd Thornton
State Hearing Officer**