



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General**

Board of Review
P.O. Box 1736
Romney, WV 26757

**Earl Ray Tomblin
Governor**

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

July 15, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 12, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to establish and seek collection of a WV WORKS cash assistance repayment claim against your household.

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 WV WORKS is based on current policy and regulations. These regulations provide that when an 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 Chapter 20.3)

The information which was submitted at your hearing revealed that you were not eligible to receive WV WORKS cash assistance during the period of November 2010 through February 2011, resulting in a \$663.00 overpayment.

It is the decision of the State Hearing Officer to Uphold the proposal of the Department to establish and seek collection of a WV WORKS cash assistance repayment claim in the amount of \$663.00.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Lori Woodward, Repayment Investigator

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

IN RE: -----,

Respondent,

v.

ACTION NO.: 11-BOR-1365

**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 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 a timely appeal, filed June 21, 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
Lori Woodward, Repayment Investigator

Presiding at the hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

All participants participated by teleconference.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department is correct in its proposal to establish and seek repayment of a WV WORKS cash assistance claim against the Respondent.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 20.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Fair Hearing request form dated June 6, 2011
- D-2a Computer printout of Individual Comments
- D-2b Earnings Statement dated October 22, 2010
- D-3 Written Statement from Employer dated November 2, 2010
- D-4 Income information from [REDACTED] dated February 16, 2011
- D-5 Cash Assistance Claim Determination
- D-6 West Virginia Income Maintenance Manual Chapter 1.2, 2.1, 2.17, 10.24
- D-7 West Virginia Income Maintenance Manual Chapter 20.3

VII. FINDINGS OF FACT:

- 1) On November 1, 2010, the Respondent reported to the Department that her employment hours from Papa Johns had reduced to eight hours per week. The Respondent submitted an Earnings Statement to the Department from October 22, 2010 (Exhibit D-2b) to show the reduction in her hours of employment; however, the Department requested additional documentation concerning the reduction in hours. The Department documented in Exhibit D-2a, Computer printout of Individual Comments dated November 1, 2010 the following:

Her hours at work have reduced down to 8 to 10 per week. Now elg [sic] for partial WV WORKS check. She is to bring in proof hours have reduced from employer. Will change component when I get proof.

- 2) On November 3, 2010, the Respondent submitted a written statement from her employer (Exhibit D-3) to the Department, in order to verify the reduction of her hours of employment. Exhibit D-3 documents:

This is to confirm that -----'s hours have decreased from 30+ hours down to less than 20, with an average of about 16 hours every two weeks.

- 3) Lori Woodward, Repayment Investigator testified that a Quality Control review was completed on the Respondent's assistance. During that review, the Department received Exhibit D-4, Income Information from [REDACTED] which documented that the Respondent's hours of employment did not reduce effective November 2010. Exhibit D-4 documents that the Respondent received income of \$357.26 for November 5, 2010 and 326.76 for November 19, 2010. Ms. Woodward indicated that the Respondent's November 2010 income did not reflect 16 hours of employment for every two weeks.

- 4) Ms. Woodward submitted Exhibit D-5, Cash Assistance Claim Determination to demonstrate that the Respondent was not eligible for cash assistance during the period of November 2010 through February 2011, resulting in a loss to the program of \$663.00. Ms. Woodward stated this claim was written as an unintentional client error repayment claim based on the Respondents ineligibility for cash assistance due to the income documented in Exhibit D-4.
- 5) The Respondent purported that she has always been honest and related information concerning her circumstances to her case worker. The Respondent believes she should not be held responsible for the cash assistance repayment claim because she was forthcoming with the information concerning the reduction in her hours of employment. The Respondent stated that her WV WORKS cash assistance had been previously terminated because of her excessive hours of employment and that she placed back on WV WORKS cash assistance when she reported the reduction in her hours. The Respondent stated she initially experienced a decrease in her hours of employment, but later received an increase in the total amount of her hours of employment.
- 6) West Virginia Income Maintenance Manual Chapter 20.3 documents in pertinent part:

When an 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 was entitled.

...

Client Errors

When the client fails to provide accurate or complete information, the first month of the overpayment is the month the incorrect, incomplete or unreported information would have affected the benefit level, considering reporting and noticing requirements.

VIII. CONCLUSIONS OF LAW:

- 1) Evidence reveals that the Respondent, as a result of an unintentional client error, was not eligible for WV WORKS cash assistance because the information she submitted to the Department did not reflect her actual income received during November 2010. The Respondent submitted a statement from her employer indicating a reduction of hours; however, the employer never reduced her hours of employment.
- 2) Pursuant to Departmental repayment policy, when an assistance group has received more cash assistance than it was entitled to receive, corrective action is taken by establishing a claim for the overpayment. Policy states that the repayment claim is the difference between the amount received and the amount the assistance group was entitled to receive and repayment for a client error can be established when the client fails to provide accurate or complete information. Based on the evidence, the Department's proposed repayment of \$663.00 is affirmed.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the proposal of the Department to establish and seek collection of a WV WORKS cash assistance repayment claim in the amount of \$663.00.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ day of July, 2011.

Eric L. Phillips
State Hearing Officer