



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

November 2, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 19, 2011. Your hearing request was based on the Department of Health and Human Resources' establishment of a WV WORKS repayment claim due to an unreported change in your household composition.

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). Further, any addition to a WV WORKS assistance group must be treated as an applicant and an applicant must complete a Personal Responsibility Contract (West Virginia Income Maintenance Manual, Chapters 2.17.D.3; 1.25.T) prior to benefit issuance.

The information submitted at your hearing revealed that WV WORKS eligibility was not established after your daughter returned to your household, resulting in overpayment of WV WORKS benefits.

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-1672**

**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 November 2, 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 October 19, 2011 on a timely appeal, filed August 9, 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, Chapters 20.3; 2.17; 1.25

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

**Department's Exhibits:**

- D-1 Hearing/Grievance Request Notification form
- D-2 Overpayment notification dated July 18, 2011
- D-3 Cash Assistance Claim Determination form and supporting documentation
- D-4 West Virginia Children's Health Insurance Program (CHIP) application, dated April 20, 2011; Case comments screen print, entry date of May 10, 2011
- D-5 West Virginia Income Maintenance Manual, Chapter 20.3
- D-6 West Virginia Income Maintenance Manual, Chapter 2.17

**VII. FINDINGS OF FACT:**

- 1) Cassandra Burns, representative for the Department's Investigations and Fraud Management (IFM) unit, testified that from December, 2010 through May, 2011 the Respondent received WV WORKS benefits as a caretaker relative, after the biological mother of the children for whom the WV WORKS benefits were intended had returned to the household. This resulted in an overpayment of WV WORKS, and a repayment claim was established against the Respondent. The July 18, 2011 claim notification (Exhibit D-2) to the Respondent states, in pertinent part:

We have determined that you were paid 1806.00 more cash benefits than you were eligible to receive during the period 12/01/10 to 05/31/11. This CLIENT ERROR claim was caused by BUDGET GROUP IN ERROR.

- 2) The Department presented an application (Exhibit D-4) for West Virginia Children's Health Insurance Program (CHIP), signed on April 20, 2011 by the biological mother of the children in this case, listing herself, the Respondent, her stepfather and two children as residing in the same household.

- 3) Case comments (Exhibit D-4) entered by a Department worker on May 10, 2011 state, in pertinent part:

REPORTED ON A CHIP APPLICATION SENT IN BY -----THAT SHE IS LIVING IN HOME OF ----- (HER MOTHER) WITH HER 2 CHILDREN....----- HAS BEEN RECEIVING CARETAKER CHECK FOR THESE 2 CHILDREN AND HAD NOT REPORTED THAT THE AP/-----WAS BACK IN THE HOME....TODAY ----- VERIFIED TO THE ESS SUPV THAT -----HAS BEEN IN THE HOME SINCE 11/2010....CLOSING THE TANF/CARETAKER CHECK EFF 6/1/11 AND SENDING TO REPAYMENT FOR THE 6 MONTHS THAT ----- WAS IN THE HOME

- 4) The Respondent testified that her daughter, -----, was in her home, but that she was only there three times a week.
- 5) The Department presented calculations of the cash assistance repayment claim (Exhibit D-3), listing monthly amounts of cash assistance received and the monthly amounts that should have been received. The amount received each of the months in the claim period – December, 2010 through May, 2011 – was \$301.00, or \$1806.00 total. The Department determined the corrected amount for the period to be zero, resulting in a claim amount of \$1806.00. The Department’s determination of the corrected amount is based on the presence of the Respondent’s daughter – parent of the children in the WV WORKS assistance group – in the Respondent’s home.
- 6) 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.

- 7) The West Virginia Income Maintenance Manual, Chapter 2.17.D.3, explains changes to a WV WORKS case that constitute additions to an assistance group as follows, in pertinent part:

An individual who is added to an existing AG is treated as an applicant. No DFA-2 is required. Benefits for the individual are prorated from the date that all eligibility requirements are met, including signing the PRC and attending orientation.

- 8) The West Virginia Income Maintenance Manual, Chapter 1.25.T, explains the eligibility requirement for a Personal Responsibility Contract (PRC) for a WV WORKS case as follows, in pertinent part:

The Personal Responsibility Contract (PRC), form DFA-PRC-1, is a contract between each of the adult or emancipated minor members of the WV WORKS AG, or non-recipient Work-Eligible Individual(s), and the Worker, as the representative of the Department.

Completion and signature of the PRC form DFA-PRC-1 is required prior to approving the WV WORKS AG.

#### **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. Testimony regarding how frequently the Respondent's daughter was in her home is unconvincing for the following reasons: the daughter listed herself as living with the Respondent in a self-completed application document, the Respondent did not make any statement regarding this frequency when she confirmed her daughter's presence in her home, and the Respondent waited several months to report her daughter's presence in her home – only doing so when contacted by a Department worker to confirm the discovery from the application document. With the daughter present in the Respondent's home, she must be treated as a WV WORKS applicant, and a Personal Responsibility Contract must be completed prior to approval of benefits. Since the daughter's presence was not reported, this process could not be completed and the total amount of benefits issued to the Respondent during this period were in error. The Department was correct to establish a WV WORKS repayment claim for \$1806.00 against the Respondent for an overpayment of benefits between December, 2010 and May, 2011.

#### **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 \$1806.00, 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 November, 2011.**

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**Todd Thornton  
State Hearing Officer**