



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

February 24, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 1, 2010. Your hearing request was based on the Department of Health and Human Resources' establishment of a WV WORKS repayment claim due to duplicate payment.

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).

The information submitted at your hearing revealed that there was a duplicate payment of WV WORKS to your case in the amount of \$408.00, and an overpayment claim was correctly established.

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
Marshall Daniels, Department Representative

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

-----,

Respondent,

v.

Action Number: 10-BOR-2078

**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 February 24, 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 December 1, 2010 on a timely appeal, filed October 15, 2010.

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
Marshall Daniels, 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 was correct to establish a WV WORKS overpayment 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 Benefit Recovery Referral screen print
- D-2 EBT Administration System Transaction History screen print for -----
- D-3 Notification of WV WORKS Stimulus Payment dated September 21, 2010
- D-4 Cash Assistance Claim Determination form
- D-5 Overpayment notification dated October 14, 2010
- D-6 West Virginia Income Maintenance Manual, Chapter 20.3

VII. FINDINGS OF FACT:

- 1) Marshall Daniels, representative for the Department's Investigations and Fraud Management (IFM) unit, testified that two \$408.00 WV WORKS payments were issued to the Respondent. The first of these was a one-time WV WORKS stimulus payment as notified in a September 21, 2010 letter (Exhibit D-3) to the Respondent, and the second was a duplicate payment issued in error. A repayment claim was established against the Respondent, and the October 14, 2010 claim notification (Exhibit D-5) states, in pertinent part:

WE HAVE DETERMINED THAT YOU WERE PAID \$408.00 MORE CASH BENEFITS THAN YOU WERE ELIGIBLE TO RECEIVE DURING THE PERIOD OCTOBER 1 TO OCTOBER 31. THIS AGENCY ERROR CLAIM WAS CAUSED BY A \$408 STIMULUS PAYMENT BEING MADE FOR OCTOBER WHEN THE STIMULUS WAS ONE TIME FOR SEPTEMBER ONLY.

- 2) Transaction history for the Respondent's WV WORKS EBT account (Exhibit D-2) was presented by the Department. The history shows \$748.00 benefit deposits on September 1, 2010 and October 1, 2010. These amounts reflect the Respondent's \$340.00 regular WV WORKS benefit and \$408.00 stimulus payments for both months. The Respondent testified that she did receive \$408.00 payments both months.

- 3) A calculation sheet (Exhibit D-4) noted the actual and corrected amounts of WV WORKS for the month of October. Mr. Daniels testified that in October 2010 the Respondent received \$748.00 in WV WORKS but should have only received the regular WV WORKS payment of \$340.00. The difference of \$408.00 is the claim amount shown on the form and on the claim notification to the Respondent.
- 4) 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.
- 5) ----- testified that she did receive duplicate payments as described by the Department. She testified that the father of her child received a \$1000.00 credit on his child support owed, and opined that her stimulus should match this amount. She testified that she received the two \$408.00 payments and \$279.00 of “more stimulus,” which was not explained by either party or noted on her transaction history. Mr. Daniels testified that child support does not affect the calculation of this claim.

VIII. CONCLUSION OF LAW:

- 1) 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 two WV WORKS payments of \$408.00. The Department clearly established that the Respondent was only entitled to one of the \$408.00 payments. Any possible corrective action needed regarding the collection, payment, or allocation of child support to the Respondent or to arrearages owed is outside the scope of this hearing, and has no bearing on the claim determination by the Department. The Department was correct to establish a \$408.00 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 \$408.00, 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 February, 2011.

**Todd Thornton
State Hearing Officer**