



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

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

December 22, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held December 15, 2011. Your hearing request was based on the Department of Health and Human Resources' action to deny your WV WORKS benefits due to excessive assets.

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 the WV WORKS Program is based on current policy and regulations. Some of these regulations state as follows: The asset limit for West Virginia Works is \$2,000 regardless of the number in the Assistance Group. (West Virginia Income Maintenance Manual Section 11.3)

Information submitted at the hearing reveals that your son has a one-third ownership in non-homestead property in French Creek and that the value of his share exceeds the WV WORKS asset limit.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your WV WORKS benefits.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Lois Francis, FSS, WVDHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-2353

**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 ----- . The 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 telephonically on December 15, 2011 on a timely appeal filed November 3, 2011 and received by the Hearing Officer on November 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
Lois Francis, Family Support Supervisor, WVDHHR

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

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department took the correct action to deny the Claimant's WV WORKS benefits due to excessive assets.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 11.3 and 11.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual Sections 11.3 and 11.4
- D-2 Notice of Decision dated October 28, 2011
- D-3 Property deed dated January 19, 2011, property tax information, and electronic mail transmission dated October 26, 2011 from -----

VII. FINDINGS OF FACT:

- 1) The Claimant applied for WV WORKS benefits in October 2011. At that time, the Claimant reported that her son Dallas holds a one-third ownership in non-homestead property in the French Creek area. According to WV WORKS Supervisor Lois Francis, the Department estimated the Fair Market Value of the property and determined that [REDACTED] one-third share is valued at \$11,333.33. Ms. Francis testified that the asset limit for the WV WORKS Program is \$2,000. The Department provided Exhibit D-3 to verify the property tax valuation.
- 2) The Department denied the Claimant's WV WORKS benefits due to excessive assets and sent a Notice of Decision (D-2) to the Claimant on October 28, 2011.
- 3) The Claimant testified that her mother had left the [REDACTED] property to her, her daughter and her son. She indicated that she signed over her share and her daughter's share to her father due to outstanding bills, however, her son maintained a one-third ownership in the property. The Claimant testified that her family moved out of the house on the property because it contained black mold and was causing health problems for her children. She contended that her son is a minor and cannot sell the property at this time, therefore, her "hands are tied." The Claimant testified that she is trying to support her family, but is being hindered by her son's ownership in property that is uninhabitable. The Claimant stated that she attempted to obtain assistance with the mold problem, but was told that there is no way to remedy the problem because the home has no foundation or insulation. She stated that she was advised to tear down the home and rebuild. She also indicated that the roof on the residence has begun to leak and the ceiling will likely fall in at some point. The Claimant indicated that the property has been reappraised, but it was determined that her son's one-third share would be still be more than \$10,000. She stated that the property is not currently for sale.

- 4) West Virginia Income Maintenance Manual Section 11.3 (D-1) states that countable assets cannot exceed \$2,000 for the WV WORKS Program, regardless of the number of persons in the Assistance Group.
- 5) West Virginia Income Maintenance Manual Section 11.4 states that the equity in real property, not otherwise excluded, is counted as an asset for the WV WORKS Program. However, any non-excluded real property that the Assistance Group is making a good faith effort to sell is excluded for six months. A good faith effort means that the property is currently available for sale through a real estate agent or through publication.
- 6) West Virginia Income Maintenance Manual Section 11.5.B.3.b(2) states that assets considered available to the Assistance Group from joint ownership include the countable asset value assigned to the AG as a result of the joint ownership, plus any other assets owned solely by AG members.

VIII. CONCLUSIONS OF LAW:

- 1) Policy reveals that countable assets cannot exceed \$2,000 for the WV WORKS Program, regardless of the number of persons in the Assistance Group. Assets considered available to the Assistance Group from joint ownership include the countable asset value assigned to the Assistance Group as a result of the joint ownership.
- 2) The Claimant's son maintains a one-third ownership in non-homestead property and the Department has determined that the value of his share is \$11,333.33. Therefore, the Department's decision to deny the Claimant's WV WORKS benefits was correct.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny the Claimant's WV WORKS benefits based on excessive assets.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of December, 2011.

**Pamela L. Hinzman
State Hearing Officer**