



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Earl Ray Tomblin
Governor

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

March 30, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 17, 2011. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for support services in the form of a "stimulus" payment through the WV WORKS Program.

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 support services ("stimulus" payment) through the WV WORKS Program is based on current policy and regulations. Some of these regulations state that payment of support services is authorized to assist WV WORKS participants in securing or maintaining employment or participating in other activities. The type and amount of any payment made must be based on need, i.e., without receiving the payment in that amount the client is not able to participate in an activity. Available services must be discussed and needs assessed by the case worker and the client during the interview and assessment process and at reviews. The client may also request services as needs arise. [WV Income Maintenance Manual, Chapter 24.14]

Information submitted at your hearing demonstrates that you are a caretaker relative who chose not to be included in the WV WORKS cash assistance benefits, and as such, you are not participating in a WV WORKS activity. You do not meet the criteria necessary to be approved for support services payments.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your request for support services in the form of a WV WORKS Emergency Assistance Payment ["stimulus" payment] through the WV WORKS Program.

Sincerely,

Cheryl A. Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Maxine Pack, [REDACTED] DHHR

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

-----,

Claimant,

v.

Action Number: 11-BOR-520

**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 ----- . 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 March 17, 2011 on a timely appeal filed September 20, 2010. This hearing request was received by the Hearing Officer on February 10, 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

Maxine Pack, Department Representative

Presiding at the hearing was Cheryl A. Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its action to deny the Claimant's request for support services in the form of a WV WORKS Emergency Assistance Payment ["stimulus" payment] through the WV WORKS Program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 24.14

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV Income Maintenance Manual Section 9.21
- D-2 Pre-Hearing Conference and/or Fair Hearing Request form signed September 20, 2010
- D-3 WV WORKS Caretaker Relative Option form signed March 25, 2010
- D-4 WV Income Maintenance Manual Section 24.14, revised 11/07

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) At some point during the month of August 2010 the Claimant applied for a supportive service payment in the form of a WV WORKS Emergency Assistance Payment ["stimulus" payment] at the [REDACTED] County Department of Health and Human Resources' (DHHR) office in [REDACTED] West Virginia. She was subsequently verbally denied her request for support services during the month of August 2010. The Claimant testified that she never received a written denial notice, but was told verbally by a case worker that she did not qualify for the support services.
- 2) The Claimant requested a hearing on September 20, 2010, indicating that she was "turned down for "Stimulus" because I'm a WV WORKS granny enrolled in school instead of WV WORKS mom enrolled in school/work."
- 3) The Department contends that the Claimant was not eligible for support services of any kind because she was not included in the WV WORKS cash assistance and assigned to a certain work component. Maxine Pack, the Department's representative, is a Family Support Specialist and works with the WV WORKS cash assistance program participants in the [REDACTED] County, West Virginia DHHR office. She testified that the Claimant is a caretaker

relative who chose not to be included in the WV WORKS cash assistance benefits on March 25, 2010. She added that when a caretaker relative signs the Caretaker Relative Option form (D-3) indicating that they do not wish to be included in the WV WORKS payment, they are not eligible for support services because they are not included in the WV WORKS payment and assigned to a work component in the Department's computer system. She stated that although the Claimant stated she was attending school, she was not in a WV WORKS component, which rendered her ineligible for the payments.

- 4) The Claimant testified that she was not informed that she would be ineligible for support services when she signed the Caretaker Relative Option form (D-3) opting to not be included. She stated that the Department informed her that because she received unearned income which exceeded one thousand seven hundred dollars (\$1700.00) monthly, her income would render the entire household ineligible if she were to be included. The option to not be included allowed her to receive WV WORKS cash assistance for her five (5) year old grandchild as a caretaker relative without her income being considered. She testified that she is enrolled in classes at [REDACTED] Career Center in [REDACTED] West Virginia, and contends that she meets the criteria to be awarded the support services payment she requested.
- 5) Policy in the West Virginia Income Maintenance Manual Section 24.1 provides that every parent and other caretaker who is included in a payment has a responsibility to participate in an activity to help prepare for, obtain and maintain gainful employment.
- 6) Policy in the West Virginia Income Maintenance Manual Section 9.21.A, 1 provides that caretaker relatives, who are not natural or adoptive parents, and stepparents when the parent is not in the home, may choose to be included or excluded from the AG [assistance group].
- 7) Policy in the West Virginia Income Maintenance Manual Section 9.21.B provides that only the non-excluded income of all AG [assistance group] members is counted for WV WORKS cash assistance eligibility.
- 8) West Virginia Income Maintenance Manual (WVIMM), Chapter 24.14 states –

Payment for support services is authorized to assist WV WORKS participants in securing or maintaining employment or participating in other activities.

The type and amount of any payment made must be based on need, i.e., without receiving the payment in that amount the client is not able to participate in an activity. Available services must be discussed and needs assessed by the case worker and the client during the interview and assessment process and at reviews. The client may also request services as needs arise.

Payment may be made for the WV WORKS Emergency Assistance Payment ["stimulus" payment] as follows:

Applies to any active WV WORKS recipient in component listed:

RAPIDS Component – AB, CC, CS, CW, EA, ED, EI, FB, FU, FV, HS, JN, JR, JT, OJ, PB, PL, PU, PV, TV, VT, WE

VIII. CONCLUSIONS OF LAW:

- 1) Policy and regulations that govern the WV WORKS Program state that support services are authorized to assist WV WORKS participants in securing or maintaining employment or participating in other activities. The type and amount of any payment made must be based on need, i.e., without receiving the payment in that amount the client is not able to participate in an activity.
- 2) Specific policy relating to the “stimulus” payment requested by the Claimant requires that the individual be an active WV WORKS recipient assigned to any one of twenty two (22) different work components in the Department’s computer system in order to be eligible for those payments.
- 3) Evidence in this case reveals that although the Claimant is a recipient of WV WORKS cash assistance on behalf of her grandson, she is a caretaker relative who opted not to be included in the benefits and therefore she is not considered a WV WORKS participant. Policy specifies that this requirement must be met in order to be eligible for the WV WORKS Emergency Assistance Payment [“stimulus” payment] she requested.
- 4) Whereas the specific criteria necessary for approval of the WV WORKS Emergency Assistance Payment [“stimulus” payment] has not been met, the Claimant is not eligible for the support service payment she requested.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your request for a WV WORKS Emergency Assistance Payment [“stimulus” payment] through the WV WORKS Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant’s Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 30th Day of March, 2011.

**Cheryl A. Henson
State Hearing Officer**