



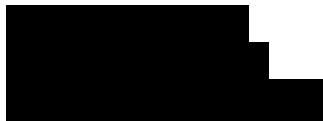
**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
State Capitol Complex
Building 6, Room 817-B
Charleston, West Virginia 25305
Telephone: (304) 558-2278 Fax: (304) 558-1992**

**Jolynn Marra
Interim Inspector General**

February 4, 2020



RE: [REDACTED] v. WVDHHR
ACTION NO.: 19-BOR-2730

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the Board of Review 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.

You will find attached an explanation of possible actions that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Angela D. Signore
State Hearing Officer
State Board of Review

Enclosure: Appellant's Recourse
Form IG-BR-29

cc: Brian Shreve, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 19-BOR-2730

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (WV DHHR) Common Chapters Manual. This fair hearing was convened on December 10, 2019, on an appeal filed November 19, 2019.

The matter before the Hearing Officer arises from the October 9, 2019 determination by the Respondent to seek repayment of West Virginia WORKS (WV WORKS) Cash Benefits.

At the hearing, the Respondent appeared by Brian Shreve, Repayment Investigator, WV DHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 eRAPIDS computer system printout of Case Comments dated February 21, 2019 through April 08, 2019
- D-2 eRAPIDS computer system printout of Case Comments dated July 15, 2019 through October 21, 2019
- D-3 WV DHHR Benefit Recovery Referral dated August 16, 2019
- D-4 West Virginia Income Maintenance Manual (WV IMM) § 5.4
- D-5 WV IMM § 5.5.48.B
- D-6 WV IMM Chapter 5 (definition of Current Market Value)
- D-7 WV IMM Chapter 5 (definition of Vehicle)
- D-8 WV DHHR Vehicle System Master Inquiry for ██████████ and NADA Guide Value
- D-9 WV DHHR Vehicle System Master Inquiry for ██████████ and NADA Guide Value

- D-10 WV DHHR Vehicle System Master Inquiry for [REDACTED] and NADA Guide Value
- D-11 WV DHHR Vehicle System Master Inquiry for [REDACTED] and NADA Guide Value
- D-12 WV DHHR Cash Assistance Claim Determination dated October 08, 2019, DHHR Benefit Recovery Referral dated August 16, 2019, Case Household Information dated September 10, 2019, Case Members History dated September 10, 2019, WV WORKS Grant Determination/DCA Gross Test payment end date of May 31, 2019, WV WORKS Grant Determination/DCA Gross Test payment end date of August 31, 2019, E-mail correspondence between [REDACTED] and Brian Shreve dated August 15, 2019, [REDACTED] checking account screen shot dated July 12, 2019, and eRAPIDS computer system printout of Case Comments dated July 15, 2019 through October 21, 2019
- D-13 WV IMM § 11.3
- D-14 DHHR Notice of Termination dated August 15, 2019
- D-15 WV IMM § 9.3.1.D.3
- D-16 DHHR Notification of Cash Assistance and/or School Clothing Allowance Overpayment dated October 09, 2019

Appellant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant was a recipient of WV WORKS benefits from April 2019 through August 2019.
- 2) On August 15, 2019, the Respondent issued a notice advising the Appellant that her WV WORKS benefits would be terminated effective October 1, 2019, based on the Appellant's assets exceeding the \$2,000 limit established by policy. (Exhibit D-14)
- 3) The Appellant's assets, as determined by the Department, included a [REDACTED] checking account with a balance of \$1,992.22, and the following vehicles: [REDACTED] (current market value - \$3,050), a [REDACTED] (current market value - \$1,725), a [REDACTED] (current market value - \$2,487), and a [REDACTED] (current market value - \$3,235). (Exhibits D-2, D-8, D-9, D-10, D-11, and D-12)

- 4) The Appellant's checking account balance consisted of money received from a tax refund. (Exhibit D-12)
- 5) The [REDACTED] and [REDACTED] were assessed to have the highest values and were excluded as countable assets by the Department. (Exhibits D-2, D10, and D-11)
- 6) The Department concluded the Appellant's non-excluded vehicle assets included a [REDACTED] and a [REDACTED]. (Exhibits D8 and D-9)
- 7) On August 14, 2019, during an office visit, the Appellant questioned the Respondent's valuation of the [REDACTED]. (Exhibit D-12)
- 8) The Appellant was notified of the overpayment claim in a Notification of Cash Assistance and/or School Clothing Allowance Overpayment dated October 09, 2019. (Exhibit D-16)
- 9) The October 09, 2019 letter identified the overpayment as that of a client error. (Exhibit D-16)
- 10) The Department failed to provide the Appellant with the Vehicle Estimate Form, DFA-V-1.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 4.15.4.D.2 Other Excluded Income Sources provides, in part:

Tax refunds on income, real property, or food purchased by the family are excluded.

WVIMM § 5.4 Maximum Allowable Assets provides, in part:

To be eligible for WV Works the total amount of countable assets cannot exceed \$2,000 regardless of the number in the Assistance Group (AG).

WVIMM § 5.5.48 Vehicles provides, in part:

The owner of a vehicle is generally the individual to whom it is titled. However, when the title of a vehicle is not in the client's name, but the client states he is the owner, the vehicle is counted as the client's asset. If the title is in the client's name, and he indicates the vehicle no longer belongs to him, and the name on the title has not been changed, the vehicle is presumed to be his, unless he can prove otherwise. Only those vehicles of members of the AG, individuals who are disqualified or excluded by law and who would otherwise be required to be included, are considered when determining vehicle assets.

The trade-in value is not increased by adding the value of low-mileage or other factors, such as optional equipment or special equipment for the disabled.

WVIMM § 5.5.48.B WV WORKS provides, in part:

One (1) vehicle per Work-Eligible Individual in the household is excluded regardless of value.

The listed trade-in value of the vehicle is used, unless one of the following conditions exists:

- The client disagrees with the listed value.

The client is responsible for obtaining one estimate on form DFA-V-1, Vehicle Estimate. The Department assumes any expense incurred in obtaining this estimate, using form BA-67. If the Department has no objection to the client's estimate, it is accepted as the CMV. The listed value is not used once an estimate of the value has been obtained.

WVIMM § 7.3 Verification Requirements provides, in part:

Possible sources for obtaining the trade-in value are:

NADA.com,
CarPrices.com,
AutoPricing.com,
Intellichoice.com,
Edmunds.com
KBB.com

WVIMM § 11.3 provides, in 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 overpayment. The claim is the difference between the amount of benefits received and the amount of benefits to which the Assistance Group was entitled. A claim can be established based on a client or agency error.

DISCUSSION

The Respondent bears the burden of proof the action taken against the Appellant was in accordance with policy. The Respondent had to prove by a preponderance of evidence that the Appellant's WV WORKS benefits were correctly terminated and acted accordingly in reference to policy to seek repayment of WV WORKS benefits from April 2019 through August 2019.

Policy stipulates the asset limit for the WV WORKS benefits is \$2,000. When the Investigations and Fraud Management (IFM) worker determined the Appellant's assets to be \$4,212, a claim for overpayment of cash assistance was established. The Appellant's assets, as determined by the Department and corroborated by the Appellant, included a [REDACTED] checking account with a balance of \$1,992.22, a [REDACTED], a [REDACTED], and a [REDACTED].

The Appellant's checking account balance was determined to consist of money received from a tax refund; therefore, per policy, the account balance is excluded as an asset by the Department for one (1) year. Policy allows for one (1) vehicle per work-eligible individual in the household to be excluded, regardless of value. The Department assessed the Appellant's [REDACTED] and [REDACTED] to have the highest market values, therefore, both vehicles were excluded as assets. The Appellant's non-excluded vehicle assets, as determined by the Department, included a [REDACTED] and a [REDACTED].

The values of the [REDACTED], [REDACTED], and [REDACTED], as determined by the Department, included the added value of *price plus options*. Policy stipulates the trade-in value *not* be increased by adding the value of low-mileage or other factors, such as optional equipment or special equipment for the disabled. Further to the above considerations, case comments entered by the eligibility worker on August 14, 2019, reflected the [REDACTED] to be valued at \$1,452, and the [REDACTED] at \$913, while the Repayment Investigator determined the value of [REDACTED] at \$3,050, and the [REDACTED] at \$1,725. Due to discrepancies between the Department eligibility worker and Repayment Investigator, assessments in vehicular values are found to be unreliable.

Policy stipulates the listed trade-in value of the vehicle is to be used unless the client disagrees with the value. If the client disagrees, the client is responsible for obtaining one estimate on form DFA-V-1, Vehicle Estimate. The Department is to assume any expense incurred in obtaining this estimate. Pursuant to the August 14, 2019 case comments and the Appellant's testimony during the hearing, the evidence verified that the Appellant questioned the eligibility worker and repayment investigator asset valuations. Evidence presented by the Department failed to establish the Appellant was provided with the DFA-V-1 form or was afforded the opportunity to obtain her own estimate at the Department's expense.

CONCLUSIONS OF LAW

- 1) The Department stipulated that the Appellant's checking account was an excluded asset.
- 2) Because the Department's vehicle estimates included added value for low mileage and discrepancies existed between the Department worker and Repayment Investigator valuations, the vehicular valuations were unreliable.

- 3) Because of inaccurate asset valuations, it is unknown if the Appellant exceeded the \$2,000 limit for WV WORKS benefits.
- 4) Because policy requires the Department to provide the Appellant with the DFA-V-1 form and allow the Appellant the opportunity to obtain her own vehicular estimates at the Department's expense, the Department's actions to terminate the Appellant's WV WORKS benefits and initiate a WV WORKS over issuance repayment claim against the Appellant were incorrect.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Department's decision to seek repayment of the Appellant's WV WORKS benefits. The matter is **REMANDED** for issuance of proper notice requesting information to determine the Appellant's countable assets in order to establish eligibility for WV WORKS benefits. If found asset eligible, the Appellant shall be granted retroactive benefits beginning September 01, 2019. The new determination of eligibility will be subject to appeal by the Appellant.

ENTERED this ____ day of February 2020.

Angela D. Signore
State Hearing Officer