



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of the Inspector General  
Board of Review

Jeffery H. Coben, MD  
Interim Cabinet Secretary

Sheila Lee  
Interim Inspector General

April 17, 2023

[REDACTED]

**RE: [REDACTED] v. WVDHHR**  
**BOR ACTION No: 23-BOR-1417**

Dear [REDACTED]:

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

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.

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

Sincerely,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

Encl: Recourse to Hearing Decision  
Form IG-BR-29

Cc: Tyler Morsi, WVDHHR

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

██████████,

**Appellant,**

v.

**Action Number: 23-BOR-1417**

**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' Common Chapters Manual. This fair hearing was convened on April 13, 2023, on an appeal filed March 15, 2023.

The matter before the Hearing Officer arises from the March 15, 2023 decision by the Respondent to terminate the Appellant's West Virginia Works (WV WORKS) cash assistance.

At the hearing, the Respondent appeared by Tyler Morsi, Family Support Specialist. The Appellant appeared pro se.

All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Combined Application and Review Form dated June 29, 2022
- D-2 Combined Application and Review Form dated November 7, 2022
- D-3 Asset List
- D-4 West Virginia Income Maintenance Manual § 5.4
- D-5 ██████████ County Real Property Report Tax Year 2022
- D-6 Notice of Decision dated March 15, 2023

**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 Hearing Officer sets forth the following Findings of Fact.

### **FINDINGS OF FACT**

- 1) On June 29, 2022, the Appellant applied for WV WORKS cash assistance. (Exhibit D-1)
- 2) The Appellant's household consists of himself and his son. (Exhibit D-1)
- 3) At application, the Appellant reported one liquid asset, a checking account, in the amount of \$140.00. (Exhibit D-1)
- 4) At application, two vehicular assets were reported, a 2003 Cadillac Deville, estimated value of \$1600.00, and one 2002 Chevrolet Blazer, estimated value of \$500.00. (Exhibit D-1)
- 5) A homestead property was reported with a Fair Market Value of \$10,200.
- 6) The Respondent approved the Appellant's WV WORKS cash assistance application based on the reported information.
- 7) On November 7, 2022, a redetermination of benefits was completed (Exhibit D-2) with the reported addition of a vehicular asset, a 2001 Cadillac Deville, estimated value of \$541.00.
- 8) In February 2023, the Appellant applied for supportive service home repairs due to his home being "dismembered by some animals".
- 9) During the supportive service application, the Appellant reported additional real property, a dwelling in ██████ County, West Virginia. (Exhibit D-5)
- 10) The Appellant's ██████ County, West Virginia property had an assessed gross value of \$3960.
- 11) The Respondent completed a data exchange asset verification (Exhibit D-3) which identified additional real property in the state of ██████, available to the Appellant, in the amount of \$1790.00.
- 12) The data exchange asset verification identified additional liquid asset checking accounts in which the Appellant was a joint owner and had access to in the amount of \$5,178.83 as of February 1, 2023. (Exhibit D-3)

- 13) The Respondent calculated the Appellant's total countable assets to be \$5740.67.
- 14) The WV WORKS asset limit is \$2000.00.
- 15) On March 15, 2023, the Respondent issued a notice to the Appellant advising that his WV WORKS cash assistance benefits would terminate effective March 31, 2023, due to the amount of assets is more than is allowed for this benefit.

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual § 5.4 documents in pertinent part:

To be eligible for the WV WORKS program the total amount of countable assets cannot exceed \$2000 regardless of the number in the assistance group.

West Virginia Income Maintenance Manual 5.5.4:

Bank Accounts and Certificates of Deposits are considered assets for the WV WORKS program.

West Virginia Income Maintenance Manual § 5.5.39 documents:

The client's homestead is the property on which he lives, and which is owned, or is being purchased by him. It is the dwelling and the land on which the dwelling rests, which is not separated by intervening property owned by others. Public rights-of-way that run through the surrounding property and separate it from the home do not affect this exclusion. Any additional property acquired and not separated from the original acquisition by intervening property owned by others is also excluded. The value of structures on the property, other than the client's dwelling, is included in the exemption whether or not they are income producing, except for mobile homes.

The value of any mobile home on the homestead property, if it is not the client's dwelling, is considered an asset, unless it is income-producing property.

West Virginia Income Maintenance Manual § 5.5.39.B.2:

The equity in property, not otherwise excluded, is an asset.

Any non-excluded real property that the AG 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. The only time this exclusion applies is when the client has agreed in writing, using a DFA-22, to dispose of the property within the six-month exclusion period. Any TANF payments made to the AG during this disposition period must be repaid to the Department once the client disposes of the asset. If, for any reason, the client fails to dispose of the property, or the case is closed during the

exclusion period, all of the payments made to the AG must be repaid. If, at the end of the six month period, the client has failed to dispose of the property, it must be counted as an asset.

West Virginia Income Maintenance Manual § 5.5.48:

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. A leased vehicle, in which the individual has no equity and which he cannot sell, is excluded.

### **DISCUSSION**

Policy dictates that in order to be eligible for the WV WORKS cash assistance program, a household's total countable assets cannot exceed \$2000 regardless of the household's size. On March 15, 2023, the Respondent determined that the Appellant's total countable assets exceeded the limit for the program and terminated his eligibility for the program. The Respondent had to prove by a preponderance of the evidence that the Appellant's total countable assets exceeded the asset limits set forth by the West Virginia Income Maintenance Manual.

On June 16, 2022, the Appellant applied for WV WORKS cash assistance for himself and his son. The application was approved based on the reported asset information for the Appellant of a checking account, two vehicles, and his ██████████ County, West Virginia homestead property, which is excluded from asset determination. (Exhibit D-1) The eligibility worker who completed the Appellant's initial application is no longer employed by the Respondent and was not available for testimony. In February 2023, the Appellant completed an application with the Respondent for home repairs. During the application, the Appellant self-reported additional real property in ██████████ County, West Virginia with a gross assessment of \$3960.00. (Exhibit D-5) Through a data report of listed assets (Exhibit D-3), the Respondent determined that the Appellant had additional real property assets in the state of ██████████ in the amount of \$1,700.00 and was joint owner of a checking account with a balance of \$5,178,83 as of February 1, 2023. Tyler Morsi, Family Support Specialist indicated that the Respondent determined that the home on the property in ██████████ County was condemned and that the assessment value of \$3960.00 was utilized in determination of the countable assets. The Respondent determined that the Appellant's assets exceeded the program limits and terminated his application effective March 31, 2023.

The Appellant purchased the ██████████ County, West Virginia property in question in 2019. The Appellant contends that the property should not be considered an asset because the dwelling on the property is uninhabitable and condemned. The Appellant testified that the real property asset

in ██████ County, West Virginia has no value because it is condemned and that the city will expense him \$3800.00 for the demolition. The Appellant indicated on multiple occasions he has reported the property to the Respondent, but the Respondent failed to enter his correct information to determine his eligibility for the program.

The Appellant's countable non-homestead property assets are determined to be \$5660.00 (\$1700.00 for the state of ██████ property and \$3960.00 for the ██████ County, West Virginia property) (Exhibit D-3 and Exhibit D-5). The equity in any non-homestead property, which is not otherwise excluded, is a countable asset toward the WV WORKS program. The Appellant has access to multiple real property assets which exceed the asset limit guidelines for the program of \$2000.00. Regardless of the state of the property, the Appellant still has an equity interest of the assessment value in the non-homestead property in ██████ County, West Virginia. There was no evidence submitted to indicate that the Appellant was making a good faith effort to sell any of the non-homestead properties available to him or that any of the available properties should otherwise be excluded from the asset determination. Because the Appellant's assets exceed the asset limit guidelines for the WV WORKS program, the Respondent's decision to terminate the Appellant's eligibility for the program is affirmed.

### CONCLUSIONS OF LAW

- 1) Countable assets for the WV WORKS program cannot exceed \$2000.00.
- 2) The equity in any non-homestead property, not otherwise excluded for program eligibility determination, is counted as an asset.
- 3) The Appellant's countable non-homestead property assets exceed the asset limit for program eligibility.

### DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate the Appellant's eligibility for the WV WORKS cash assistance program.

**ENTERED this \_\_\_\_\_ day of April 2023.**

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Eric L. Phillips  
**State Hearing Officer**