



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

Karen L. Bowling
Cabinet Secretary

August 26, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 15-BOR-1919

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 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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Brian Shreve, Department Representative

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

██████████,

Appellant,

v.

Action Number: 15-BOR-1919

**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 August 26, 2015, on an appeal filed April 28, 2015.

The matter before the Hearing Officer arises from the March 27, 2015 decision by the Respondent to establish a WV WORKS repayment claim against the Appellant.

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

Department's Exhibits:

- D-1 Screen print of foster care payments for the Appellant from the Movant's data system
- D-2 West Virginia Income Maintenance Manual (WVIMM), Chapter 9.21 (excerpt)
- D-3 WVIMM, Chapter 2.17 (Excerpt)
- D-4 [none]
- D-5 WVIMM, Chapter 20.3
- D-6 Notification letter dated March 27, 2015

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) The Respondent notified the Appellant of the establishment of a \$602, “client error” WV WORKS repayment claim on March 27, 2015 (Exhibit D-6).
- 2) The children for whom the Appellant received WV WORKS in October 2014 and November 2014 were ineligible to be included in a WV WORKS payment because the Appellant was receiving foster care payments for them (Exhibit D-1).
- 3) The Appellant did not report this information to the Respondent.
- 4) The amount of the claim (\$602) represents the total amount of WV WORKS benefits issued to the Appellant in October 2014 and November 2014.
- 5) The classification of the claim as a “client error” claim is based on the fact the Appellant did not report the information that could have prevented the overpayment of WV WORKS.

APPLICABLE POLICY

The WV Income Maintenance Manual (WVIMM), at §20.3, reads “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.”

At §20.3.C.2, policy defines client errors as occurring “When the client fails to provide accurate or complete information...”

At §9.21.A.3, “An individual who is a recipient of federal, state or local foster care maintenance or an adoption assistance payment” is listed as individuals that cannot be included in a WV WORKS assistance group.

At §2.17.B.2, the timely reporting expectation for WV WORKS reads, “...all changes in a client’s circumstances must be reported immediately.”

DISCUSSION

The Appellant is appealing the Respondent’s establishment of a WV WORKS repayment claim. The basis of this claim is the Appellant’s error in reporting a type of income that makes her household ineligible for WV WORKS. Although the Appellant may have not been aware of this, and although the Respondent could also have prevented the overpayment by better communication between its divisions responsible for WV WORKS and foster care payments, the Appellant had an obligation to report this information as well.

CONCLUSION OF LAW

Because the Appellant received excess WV WORKS benefits in the amount of \$602 that could have been prevented by timely reporting, the Respondent must establish a WV WORKS “client error” repayment claim against the Appellant for this amount.

DECISION

The decision of the Respondent to establish a \$602 WV WORKS repayment claim against the Respondent is **upheld**.

ENTERED this ____ Day of August 2015.

**Todd Thornton
State Hearing Officer**