



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

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

September 14, 2017

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-2291 and 17-BOR-2292

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,

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

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

cc: Christina Saunders, WVDHHR

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

██████████,

Appellant,

v.

Action Numbers: 17-BOR-2291 & 17-BOR-2292

**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 convened on September 7, 2017, on an appeal filed August 10, 2017.

The matter before the Hearing Officer arises from the July 20, 2017 and July 21, 2017 decisions by the Respondent to seek repayment of Supplemental Nutrition Assistance Program (SNAP) and WV WORKS (cash assistance) benefits.

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

Department's Exhibits:

- D-1 Hearing Request Information forms
- D-2 Benefit Recovery Referral, SNAP Claim Determination, SNAP Claim Calculation Sheet, Food Stamp Allotment Determination, SNAP Issuance History-Disbursement, WV WORKS Issuance History-Disbursement, Individual Demographics, Case Comments
- D-3 FACTS Income Details
- D-4 West Virginia Income Maintenance Manual Chapter 20.2
- D-5 West Virginia Income Maintenance Manual Chapter 2.2
- D-6 Notice of Decision dated July 28, 2016
- D-7 Benefit Recovery Referral, Cash Assistance Claim Determination, WV WORKS Issuance History-Disbursement, Case Comments
- D-8 FACTS Income Details

- D-9 Appellant's written statement
- D-10 West Virginia Income Maintenance Manual Chapter 2.17
- D-11 West Virginia Income Maintenance Manual Chapter 20.3
- D-12 West Virginia Income Maintenance Manual Chapter 9.21

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 Appellant was a recipient of Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, benefits, and WV WORKS cash assistance for her two grandchildren.
- 2) On July 20, 2017 and July 21, 2017, the Respondent sent the Appellant notification, informing her that she had received an overpayment of SNAP benefits for the period of August 2016 and September 2016, and an overpayment of WV WORKS benefits for the period of July 22, 2016 through August 2016.
- 3) The Respondent contends that the Appellant received incorrect SNAP and WV WORKS issuances because she failed to report that she had begun receiving foster care payments for her grandchildren.
- 4) The Respondent maintains that the Appellant received a total SNAP over issuance of \$186 and a total cash assistance over issuance of \$602 as the result of her failure to report the foster care income (see D-2 and D-7).
- 5) The Appellant contended that her grandchildren left her home in late May 2016, but she had believed the older child was going to return to her home and stay until the end of July 2016. She testified that she received no guidance from Child Protective Services concerning her grandchildren's benefits, and the case worker would not return her telephone calls. The Appellant stated that an employee in the Respondent's foster care unit subsequently told her that she could use the foster care funds because she had already purchased items for the children. She stated that she did not abuse or misuse Department funding, and turned over the Electronic Benefits Transfer (EBT) card with cash assistance and SNAP benefits to the children's stepmother for the children's use when they left her home. She indicated that the benefits were used after she turned the card over to that household. The Appellant testified that she only receives Social Security income, that she suffers from diabetes, and that she has no means to repay the benefits. She testified that she was simply trying to help her grandchildren.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 20.2 (D-4) states that when an Assistance Group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or Intentional Program Violation (IPV) claim. The claim is the difference between the entitlement the Assistance Group received and the entitlement the Assistance Group should have received.

Chapter 20.3 of the Manual (D-11) states that a claim for overpayment is established when an Assistance Group has received more cash assistance than it was entitled to receive.

Chapter 10.3 of the Manual states that foster care payments are counted as unearned income for the SNAP if the foster child is included in the SNAP Assistance Group. This section states that foster care payments are not counted as income for the WV WORKS Program. However, Section 9.21 of the Manual (D-12) states that caretaker relatives who are not parents or adoptive parents may choose to be included or excluded from the WV WORKS benefits. A caretaker relative may receive WV WORKS when there are no children in the Assistance Group if all the children are ineligible for WV WORKS only because they receive foster care payments. Individuals who are recipients of federal, state or local foster care maintenance cannot be included in the WV WORKS Assistance Group.

Chapter 2.17 (D-10) states that all changes in a client's circumstances must be reported immediately in WV WORKS cases. Chapter 2.2 of the Manual (D-5) states that SNAP Assistance Groups, once approved, must report when total gross earned and unearned income in the household exceeds the Assistance Group's gross income limit.

Chapter 1.2.E of the Manual states that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.

DISCUSSION

Policy states that when an Assistance Group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or Intentional Program Violation (IPV) claim. The claim is the difference between the entitlement the Assistance Group received and the entitlement the Assistance Group should have received. In addition, policy states that a claim for overpayment is established when an Assistance Group has received more cash assistance than it was entitled to receive.

The Appellant - a caretaker relative for her two grandchildren - was not included in the WV WORKS cash assistance benefit, but continued to receive WV WORKS for the children after they began receiving foster care payments. As the foster care income was not reported in a timely manner, the Respondent's proposal to seek repayment of SNAP and cash assistance benefits is affirmed.

CONCLUSION OF LAW

The Respondent acted correctly in seeking repayment of SNAP and WV WORKS benefits.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Respondent's proposal to seek repayment of SNAP and WV WORKS benefits.

ENTERED this 14th Day of September 2017.

**Pamela L. Hinzman
State Hearing Officer**