



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
P.O. Box 1247
Martinsburg, WV 25402

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

October 4, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2333

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,

Lori Woodward
State Hearing Officer
Member, State Board of Review

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

cc: Christine Saunders, IFM, [REDACTED] Co. DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW

██████████,

Appellant

v.

Action Number: 17-BOR-2333

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 October 3, 2017, on an appeal filed August 21, 2017.

The matter before the Hearing Officer arises from the July 21, 2017 decision by the Respondent to establish a repayment of over-issued cash benefits.

At the hearing, the Respondent appeared by Christina Saunders with Investigations and Fraud Management. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Benefit Recovery Referral dated September 2, 2016, and Cash Assistance Claim Determination
- D-2 Screen print of WV WORKS Issuance History – Disbursement, August 1, 2015 through June 1, 2016
- D-3 Screen print of Individual Demographics
- D-4 Screen print of Case Comments from the Appellant's eRAPIDS case from June 16, 2016 to May 16, 2017
- D-5 Screen print of Foster Care Issuances for the Appellant's grandchildren from January 14, 2016 to August 9, 2016
- D-6 West Virginia Income Maintenance Manual (IMM) §2.17.B (excerpt)
- D-7 IMM §2.17.B (excerpt)
- D-8 IMM §20.3 (excerpt)
- D-9 IMM §9.21 (excerpt)

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 WV WORKS/WVEAP (WV WORKS) caretaker benefits for her two grandchildren that were residing in her household.
- 2) On January 14, 2016, the Appellant's grandchildren began receiving foster care benefits. (Exhibit D-5)
- 3) The Appellant did not report this change in household circumstances to her WV WORKS worker.
- 4) It was not until June 2016 that the Appellant's WV WORKS worker became aware that the Appellant's grandchildren became eligible for foster care payments in November 2015. (Exhibit D-4)
- 5) The Appellant was ineligible to receive the WV WORKS caretaker benefits while her grandchildren were receiving foster care benefit payments.
- 6) A repayment referral was made to the Respondent's Investigations and Fraud Management (IFM) unit. (Exhibit D-1)

APPLICABLE POLICY

IMM §2.17.B requires all changes in income, assets, household composition and other circumstances be reported by WV WORKS benefit recipients. All changes in a client's circumstances must be reported immediately.

IMM §9.21.A.3 establishes that an individual who is a recipient of federal, state or local foster care maintenance or an adoption assistance payment results in ineligibility for WV WORKS benefits.

IMM §20.3 explains that a repayment is pursued for cash assistance overpayments made under the former AFDC/U Program, WV WORKS, CSI, the former TANF Program, Support Service Payments, WV WORKS School Clothing Allowance, and the West Virginia School Clothing Allowance. When an Assistance Group (AG) has received more cash assistance than it was entitled to receive, corrective action is taken by establishing a claim for the overpayment. The claim is the difference between the amount of benefits received and the amount of benefits to which the AG was entitled. Referrals must be made for all overpayments, regardless of the dollar amount.

When a client fails to report changes timely according to Section 2.17.B, and the change would have decreased benefits, a claim is established. When the client fails to provide accurate or complete information, the first month of the overpayment is the month the incorrect, incomplete or unreported information would have affected the benefit level, considering reporting and noticing requirements.

DISCUSSION

The Appellant was receiving WV WORKS cash assistance benefits as a caretaker relative for her two grandchildren. In November 2015, the Appellant's grandchildren were approved to begin receiving foster care benefits. Their first benefit payment was in January 2016. The Appellant did not report this change in circumstances in her household to her WV WORKS worker.

In June 2016, her WV WORKS worker became aware that the Appellant's grandchildren began receiving foster care benefits. Per policy, the Appellant was ineligible to receive both the WV WORKS benefit payments at the same time as the foster care payments were being made to her grandchildren who were living with her in the household. A repayment referral was made to the Respondent's IFM unit for over-issuance of her WV WORKS benefits. IFM determined that the Appellant was over-issued WV WORKS benefits from January 2016 through June 2016. It is noted that originally the over-issuance was determined from December 2015 to June 2016. However, at the hearing the Respondent's representative amended her calculations to exclude the December 2015 repayment amount of \$301, stating that although the Appellant was notified in November 2015 about the foster care payments, the first payment was not made until January 2016.

The Appellant testified that she was unaware that she needed to report this change in her household. She stated that she believed the Respondent's Foster Care unit should have been responsible to alerting her WV WORKS worker. Per policy, the Appellant had the responsibility to alert her WV WORKS worker of the change in her household circumstance. Because she had not done so, it resulted in the Appellant receiving WV WORKS benefits from January 2016 through June 2016 for which she was not entitled. This over payment must be repaid to the Respondent.

Pursuant to policy found in Chapter 20 of the West Virginia Income Maintenance Manual, the Department has correctly proposed a repayment of the over-issued WV WORKS benefits due to an unintentional client error. The claim is the difference between the entitlement the AG received and the entitlement the AG should have received.

CONCLUSION OF LAW

Whereas, the Appellant failed to report that her grandchildren began receiving Foster Care benefit payments, an over-issuance of WV WORKS benefits resulted. Per WV WORKS policy, this unintentional client error overpayment must be repaid.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's proposal to establish an unintentional client error repayment claim in the amount of \$1806.

ENTERED this 4th day of October 2017

Lori Woodward, State Hearing Officer