



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
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Charleston, West Virginia 25313
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**Jolynn Marra
Interim Inspector General**

April 3, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NOS.:20-BOR-1335 & 20-BOR-1336

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,

Danielle C. Jarrett
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29
cc: April Stuckey, Repayment Investigator

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

████████████████████,

Appellant,

v.

**Action Numbers: 20-BOR-1335
& 20-BOR-1336**

**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 March 26, 2020, on an appeal filed March 2, 2020.

The matter before the Hearing Officer arises from the February 28, 2020 decision by the Respondent to seek repayment of Supplemental Nutrition Assistance Program (SNAP) and West Virginia Works (WV WORKS)/Cash Assistance benefits.

At the hearing, the Respondent appeared by April 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 Benefit Recovery Referral, dated July 1, 2019
- D-2 Benefit Recovery Referral, dated February 13, 2020
- D-3 West Virginia Income Maintenance Manual (WV IMM) §§ 11.3 through 11.3.1
- D-4 WV IMM §§ 11.2 through 11.2.1
- D-5 Code of Federal Regulations (CFR) § 273.18
- D-6 SNAP Redetermination Form, dated January 25, 2019
- D-7 Families and Children Tracking System (FACTS) computer system screenshot printout of Paid Claims, dated February 2019
- D-8 West Virginia Department of Health and Human Resources (WVDHHR) Application for Emergency Assistance (EA), dated March 8, 2019

- D-9 WVDHHR Cash Assistance Claim Determination, dated July 26, 2020; WV WORKS Issuance History – Disbursement; and WV WORKS Grant Determination/DCA Gross Test
- D-10 WVDHHR SNAP Claim Determination, dated February 27, 2020; SNAP Issuance History – Disbursement; SNAP Allotment Determination, dated March 8, 2019; eRAPIDS computer system screenshot printout of SNAP Budget, dated March 8, 2019; and SNAP Claim Calculation Sheet

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) The Appellant was a recipient of SNAP benefits as part of a four-person Assistance Group (AG).
- 2) The Appellant was a recipient of WV WORKS Caretaker Relative (WV WORKS) benefits for her nephew, Child [REDACTED], who was residing in her household.
- 3) On May 7, 2019, the Appellant adopted Child [REDACTED]
- 4) The adoption of Child [REDACTED] was not reported timely to the Department.
- 5) Effective June 1, 2019, the Appellant was no longer eligible for WV WORKS Caretaker Relative benefits due to the adoption of Child [REDACTED]
- 6) On July 1, 2019, the Respondent received a repayment referral for WV WORKS benefits, alleging the Appellant received foster care and adoption assistance payments since March 2019, which was assigned for investigation. (Exhibit D-1)
- 7) As a result of the referral, an investigation was completed, and the Respondent established a WV WORKS client error repayment claim against the Appellant in the amount of \$1,152 for the time period of April 1, 2019 through July 31, 2019. (Exhibit D-9)
- 8) As a result of the referral, the Respondent also established a SNAP client error repayment claim against the Appellant in the amount of \$1,088 for the time period of April 1, 2019 through July 31, 2019. (Exhibit D-10)
- 9) The Appellant was notified of the WV WORKS overpayment claim in a Notification of Cash Assistance and/or School Clothing Allowance Overpayment dated February 27, 2020. The letter states that the claim is identified as a client error.

10) The Appellant was notified of the SNAP overpayment claim in a Notification of Supplemental Nutrition Assistance Program (SNAP)/ Disaster Supplemental Assistance Program Overissuance (D-SNAP) dated February 28, 2020. The letter states that the claim is identified as a client error.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) § 1.2.4, states the client's responsibility is to provide complete and accurate information about his or her circumstances so that the worker can make a correct determination about his or her eligibility.

WV IMM § 1.5.7.D explains when the applicant is a Caretaker Relative, the Worker must explain the option of being included or excluded from the Assistance Group (AG).

WV IMM § 3.3.2 reads the child must be living with a specified relative, who assumes primary responsibility for the child's care, in a place established as the relative's home. In order for an individual to be a Caretaker Relative, he/she must be a specified relative. A specified relative is defined as a natural or adoptive parent. Adoption procedures must be finalized in order for an adoptive parent to qualify as a specified relative.

For WV WORKS, it may be impossible for a relative to establish a home for a child who is in a foster home, or other place, without financial assistance before the child enters his home. The payment can be initiated any time within 30 days prior to the date of the child actually goes to live with the specified relative. If DHHR made a foster care payment, a WV WORKS payment cannot be initiated for the same period because this results in a duplication of payment.

WV IMM § 3.4.1.B explains individuals who are recipients of federal, state, or local foster care maintenance or an adoption assistance program are ineligible

WV IMM § 3.10 explains in order to be eligible for WV WORKS, the parent or caretaker relative must be living in the household with a dependent child for whom they assume primary responsibility.

WV IMM § 10.4.2 explains that all SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination. SNAP AGs are subject to limited reporting requirements, and the reporting requirement in this section apply to recipient AGs only. The reporting requirements for SNAP clients are only for SNAP benefits and do not affect the reporting requirements of any other program of assistance that the AG also receives.

WV IMM § 10.4.2.A Limited Reporting provides in part:

When approved with a gross non-excluded income at or below 130% of the Federal Poverty Level (FPL), an AG must report when the total gross non-excluded earned and

unearned income of the Income Group (IG) exceeds 130% of the FPL for the number of individuals in the original AG.

WV IMM § 10.5.2.B reads for WV WORKS cases; a client must report all changes in circumstances within ten (10) days.

WV IMM § 11.2.1 Referral Process provides in part:

The establishment, notification, and collection of SNAP claims is the responsibility of the Investigations and Fraud Management (IFM) Claims and Collections Unit (CCU). The collection staff members are known as Repayment Investigators (RI). Upon discovery of a potential SNAP claim, the Worker refers the case to the RI through the eligibility system. In determining if a referral is appropriate, the Worker must consider the client's reporting requirements, the Worker's timely action, and the advance notice period.

WV IMM § 11.3 explains when an AG 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 benefit to which the AG was entitled to receive.

WV IMM § 11.3.3.A.1 explains the first month of overpayment is the month the change would have been effective had the agency acted properly. This is considered an Agency Error (AE).

WV IMM 11.3.3.B explains 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. This is considered a Client Error (CE).

DISCUSSION

The Appellant was a recipient of SNAP and WV WORKS benefits. The Appellant received SNAP benefits, as a part of a four-person AG, and WV WORKS benefits for her nephew, Child [REDACTED], who resided in her household. On July 1, 2019, the Respondent received a referral for the over issuance of WV WORKS benefits, alleging the Appellant was receiving foster care and adoption assistance payments since March 2019. On February 27, 2020, the Respondent issued a notice advising the Appellant that a client error repayment claim had been established against her due to over issuance of WV WORKS benefits as the Appellant failed to report unearned income. On February 28, 2020, the Respondent issued a second notice advising the Appellant that a client error repayment claim had been established against her due to over issuance of SNAP benefits due to the Appellant's failure to report unearned income. The Appellant contested the Respondent's decision to establish the WV WORKS and SNAP repayment claims.

The Respondent had to demonstrate by a preponderance of evidence that it correctly followed policy when establishing the repayment claims against the Appellant. The West Virginia Income

Maintenance Manual explains that when an AG has been issued more Cash Assistance and/or SNAP than it was entitled to receive, corrective action must be taken by establishing a repayment claim.

WV WORKS/Cash Assistance

The Respondent testified that a WV WORKS client error repayment claim was established against the Appellant in the amount of \$1,152 for the time period of April 1, 2019 through July 31, 2019, for failure to report unearned income.

The Respondent testified a Home Finder worker with the Department verified the Appellant started receiving foster care payments in February 2019. However, evidence submitted by the Respondent indicated that Child [REDACTED] first foster care payment in the amount of \$600 was issued on March 8, 2019, and a second payment in the amount of \$600 was issued on March 15, 2019. The Respondent testified the Department's FACTS computer screenshot printout documentation indicates the foster care payments were issued to the Appellant. The Appellant argued that she never received foster care payments. The Respondent testified that the Appellant's name was at the top of the FACTS computer screenshot printout, and it appears that this is correct. However, the FACTS evidence provided did not list an address where the foster care payments were issued. Without the address listed and no other evidence to show that the Appellant received these two foster care payments, the Respondent was unable to show through a preponderance of evidence that the Appellant received the foster care payments in March 2019. Because the Respondent's evidence is unclear as to who received the foster care payments, the Appellant's testimony that she did not receive foster care payments is credible.

The Appellant testified that Child [REDACTED] was born in August 2018 and began residing with her in September 2018. The Appellant testified in September 2018 she received a WV WORKS benefit payment in the amount of \$230. The Appellant further testified she received WV WORKS monthly benefit payments in the amount of \$288 from October 2018 through July 2019.

On May 7, 2019, the Appellant adopted Child [REDACTED]. Policy indicates once the Appellant became Child [REDACTED] mother, through adoption, she was no longer eligible for WV WORKS Caretaker Relative benefits for Child [REDACTED], effective June 1, 2019.

The Respondent failed to establish, through a preponderance of evidence, that the Appellant received foster care and adoption assistance payments in the month of March. However, the Appellant adopted Child [REDACTED] in May and was no longer eligible to receive WV WORKS benefits, beginning June 1, 2019. As a result, the Appellant received an over issuance of WV WORKS benefits from June 1, 2019 through July 31, 2019. Because the Respondent indicated the repayment started April 1, 2019 in its calculations of the repayment amount, the Respondent was incorrect with its assessment of a \$1,152 repayment.

SNAP

The Respondent testified, as a result of the WV WORKS repayment referral, a SNAP client error repayment claim was established against the Appellant in the amount of \$1,088 for the time period of April 1, 2019 through July 31, 2019, for failure to report unearned income.

The Appellant testified she was court ordered to receive \$600 monthly for her adoption of Child [REDACTED]. The Appellant testified that it was not until her adoption attorney contacted the Department that she began receiving adoption assistance payments. The Appellant further testified around July 20, 2019, she received an adoption assistance payment for Child [REDACTED], in the amount of \$600. The Appellant argued that she reported this unearned income of \$600 to the Department almost immediately.

CONCLUSIONS OF LAW

- 1) Because the Appellant was no longer defined as a Caretaker Relative, effective June 1, 2019, Child [REDACTED] was ineligible for WV WORKS benefits.
- 2) Per policy, when an AG receives more WV WORKS benefits than it is entitled to receive a repayment claim is established.
- 3) The Respondent did not show by a preponderance of evidence that the Appellant received foster care or adoption assistance payments before July 2019.
- 4) The over issuance of WV WORKS benefits, from June 1, 2019 through July 31, 2019, was a result of a client error.
- 5) The Appellant is responsible for the repayment whether it was a client error or an agency error.
- 6) Evidence failed to establish the Appellant is responsible for a WV WORKS repayment in the amount of \$1,152.
- 7) The Appellant reported her first receipt of adoption assistance payment in July 2019 timely to the Department.
- 8) Evidence failed to establish the Appellant is responsible for a SNAP repayment in the amount of \$1,088.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to establish a WV WORKS/Cash Assistance repayment claim against the Appellant. The matter is hereby

REMANDED to the Respondent for recalculation of the repayment to begin June 1, 2019 through July 31, 2019, due to a client error. It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to establish a SNAP repayment claim against the Appellant from April 1, 2019 through July 31, 2019, in the amount of \$1,082. All notices issued to the Appellant should include the Appellant's right to a Fair Hearing through the Board of Review.

ENTERED this _____ day of April 2020.

Danielle C. Jarrett
State Hearing Officer