



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

June 23, 2016



RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1842

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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

cc: Brian Shreve, Repayment Investigator

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

██████████,

Appellant,

v.

Action Number: 16-BOR-1842

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on June 22, 2016, on an appeal filed May 4, 2016.

The matter before the Hearing Officer arises from the April 14, 2016 decision by the Respondent to establish a repayment claim against the Appellant's receipt of WV WORKS cash assistance.

At the hearing, the Respondent appeared by the Department's Representative, Repayment Investigator Brian Shreve. Appearing as a witness for the Department was Delores Smith, Family Support Specialist for the WV DHHR, ██████████ County Office. The Appellant appeared *pro se*. All participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV WORKS Case Recordings, dated January 26 to February 11, 2016
- D-2 WV Income Maintenance Manual (WV IMM), Chapter 9, §9.21.A.1
- D-3 WV IMM, Chapter 9, §9.21.A.3
- D-4 Form ES-CU-5, Cash Assistance Claim Determination, dated April 13, 2016
- D-5 WV IMM, Chapter 20, §20.3
- D-6 Letter from Department to Appellant, dated April 14, 2016
- D-7 Print-out from WV Department of Motor Vehicles (DMV)

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 WV WORKS caretaker-relative cash assistance benefits for the benefit of her three grandchildren.
- 2) On February 11, 2016, the Appellant performed a WV WORKS benefits review with a Family Support Specialist. During the review, she informed the Family Support Specialist that her grandchildren's mother was living in her home, and had done so "since Father's Day 2015" (Exhibit D-1).
- 3) On April 13, 2016, the Department's representative completed a Cash Assistance Claim Determination (Exhibit D-4). He argued that because the Appellant did not report her daughter lived with her while she received WV WORKS benefits on behalf of the daughter's children, she received an overpayment of WV WORKS benefits in the amount of \$2380 from August 2015 to February 2016. The Department sent the Appellant a letter (Exhibit D-6) informing her of the repayment obligation and amount.
- 4) The Appellant requested a fair hearing to protest the Department's establishment of this repayment obligation.

APPLICABLE POLICY

The WV Income Maintenance Manual (WV IMM), Chapter 9, §9.21.A.1 states that all minor, dependent, blood-related and adoptive siblings who live in the same household and are otherwise eligible and the parents of the children when the parents live with the children are required to be included in the WV WORKS assistance group (AG).

The WV IMM, Chapter 20, §20.3 reads, "When an 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."

DISCUSSION

The Appellant was a recipient of WV WORKS caretaker-relative cash assistance on behalf of her three grandchildren. The Department's representative established a repayment obligation against her receipt of WV WORKS because the mother of her grandchildren had lived in her home from August 2015 until February 2016.

On February 11, 2016, the Appellant completed a yearly WV WORKS benefit review. During this review, she reported that her daughter, the mother of the children for whom she received caretaker-relative cash assistance, lived with her and had done so “since Father’s Day 2015” according to the Appellant’s case record (Exhibit D-1).

The Appellant did not dispute that her daughter lived with her from August 2015 to February 2016. She testified that when her daughter moved into her home in 2015, the daughter applied for SNAP and Medicaid for herself and a fourth child, who was not included in her caretaker-relative assistance group. She stated that when her daughter made this application, the Department should have deduced that the daughter lived in the Appellant’s home and taken the appropriate action to discontinue the WV WORKS caretaker-relative benefit. Because the Department failed to do this, she concluded, the overpayment was not her fault and she should not have to repay the WV WORKS cash assistance.

The Department’s representative responded that he did not have any information regarding the daughter’s application for SNAP and Medicaid. However, he speculated that if the daughter did not report anyone in her SNAP and Medicaid assistance groups but herself and one child who was not included in the WV WORKS caretaker-relative assistance group, there would be no way to establish a connection between the Appellant’s and her daughter’s cases.

Regardless of whether the Department should have known these two assistance groups lived in the same home, the Appellant should not have received WV WORKS caretaker-relative cash assistance while the mother of her grandchildren lived with her. The Department acted correctly to establish a WV WORKS repayment obligation against the Appellant.

CONCLUSION OF LAW

The WV Income Maintenance Manual, in Chapter 20, §20.3, requires the establishment of WV WORKS repayment claims whenever there has been an excessive issuance of WV WORKS benefits. As such, the Department correctly established a WV WORKS repayment claim against the Appellant for \$2380.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department’s decision to establish a WV WORKS repayment claim totaling \$2380 against the Appellant.

ENTERED this 23rd Day of June 2016.

Stephen M. Baisden
State Hearing Officer