



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

July 26, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-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: Juna Woodall, Department Representative

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

██████████
Appellant,

v.

Action Number: 16-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 June 16, 2016, on an appeal filed May 16, 2016.

The matter before the Hearing Officer arises from the March 3, 2016 decision by the Respondent to establish a WV WORKS repayment claim against the Appellant.

At the hearing, the Respondent appeared by Juna Woodall, Repayment Investigator. The Appellant appeared *pro se*. Appearing as a witness and representative on the Appellant's behalf was ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Client Placement History Report for the Appellant's grandchildren
- D-2 Cash Assistance Claim Determination form and supporting documentation
- D-3 Appellant's application for WV WORKS, dated April 16, 2015
- D-4 Case comments regarding the Appellant's case from the Respondent's data system
- D-5 Cash assistance issuance history and transaction history for the Appellant's case from the Respondent's data system

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 applied for WV WORKS benefits for her grandchildren on April 16, 2015. (Exhibit D-3)
- 2) The Appellant was approved for WV WORKS benefits.
- 3) The Appellant's grandchildren left her home on June 11, 2015. (Exhibit D-1)
- 4) The Appellant's eligibility for WV WORKS benefits for her grandchildren ended in June 2015.
- 5) The Appellant continued to receive WV WORKS benefits for her grandchildren from July 2015 through October 2015. (Exhibit D-5)
- 6) The Appellant received these benefits via an Electronic Benefit Transfer (EBT) card. (Exhibit D-5)
- 7) The Appellant was the authorized cardholder for the WV WORKS benefits issued via the EBT card. (Exhibit D-5)
- 8) The WV WORKS benefits were deposited and accessed monthly via the EBT card, for each month from July 2015 through October 2015. (Exhibit D-5)
- 9) The total amount of WV WORKS benefits issued to the Appellant after her program eligibility ended was \$1,360. (Exhibit D-2)
- 10) The Respondent established a cash assistance repayment claim against the Appellant in the amount of \$1,360.

APPLICABLE POLICY

The WV Income Maintenance Manual (WVIMM), at §20.3, reads “When an [assistance group] has been issued 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 [assistance group] was entitled.”

At §15.2.B, the WVIMM policy for WV WORKS requires a child to be “living with a specified caretaker relative, who assumes primary responsibility for the child’s care, in a place established as the relative’s home,” as a condition of eligibility for the program.

The WVIMM, Chapter 21, Appendix A, notes that WV WORKS benefits are not replaced when the EBT benefits are used by an unauthorized person. At §21.3.J, the WVIMM reads, “The payee or authorized cardholder may request a PIN change at any time.”

DISCUSSION

The Respondent established a cash assistance claim in the amount of \$1,360 against the Appellant. The Appellant is contesting the Respondent’s decision to establish this claim.

The Respondent establishes such claims when the amount of cash assistance received by a household exceeds the amount they were eligible to receive. The cash assistance in question is WV WORKS benefits. The policy for WV WORKS requires a child to be in the home as a condition of eligibility. There was no dispute of the fact this eligibility requirement was not met during the claim months in question, or of the claim type or claim calculation.

The Appellant’s sole argument was that she did not receive the WV WORKS benefits in question. The Appellant signed the application document for these benefits on April 16, 2015, and was subsequently approved for the program. The Appellant was issued an EBT card to access these benefits, secured by a PIN. Benefits delivered via EBT are only to be accessed by the authorized cardholder – in this case, the Appellant – and are not replaced when used by an unauthorized person. If a PIN is compromised, the authorized cardholder can prevent unauthorized access to benefits delivered via EBT by requesting a new number. Not only did the Appellant not take this step, the testimony she offered to explain this argument was particularly unclear and unconvincing.

The Respondent was correct to establish a \$1,360 cash assistance claim against the Appellant for WV WORKS benefits issued to, and accessed by the Appellant.

CONCLUSION OF LAW

Because the Appellant received excessive WV WORKS benefits in the amount of \$1,360 due to no eligible children in the household, the Respondent must establish a WV WORKS repayment claim against the Appellant for this amount.

DECISION

The decision of the Respondent to establish a \$1,360 WV WORKS repayment claim against the Respondent is **upheld**.

ENTERED this ____ Day of July 2016.

**Todd Thornton
State Hearing Officer**