



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

Bill J. Crouch
Cabinet Secretary

**Board of Review
416 Adams Street Suite 307
Fairmont, WV 26554
304-368-4420 ext. 79326**

M. Katherine Lawson
Inspector General

August 7, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 18-BOR-1792

Dear Mr. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson
State Hearing Officer
State Board of Review

Enclosure: Appellant's Recourse
Form IG-BR-29

cc: Wanda Morgan, Investigations and Fraud Management

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

██████████,

Appellant,

v.

ACTION NO.: 18-BOR-1792

**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 July 31, 2018, on an appeal filed May 31, 2018.

The matter before the Hearing Officer arises from the May 23, 2018 determination by the Respondent to establish a repayment claim against the Appellant's receipt of WV WORKS (WVW) cash assistance payments as a caretaker-relative for a child in his care.

At the hearing, the Respondent appeared by Wanda Morgan, 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 DHHR Application for Healthcare Assistance, signed May 8, 2017
- D-2 DHHR Application for WV Works Cash Assistance, signed August 10, 2017
- D-3 WVW Rights and Responsibilities, signed August 10, 2017
- D-4 WVW Caretaker Relative Options Form, signed August 9, 2017
- D-5 Legal Aid of West Virginia Referral, dated August 10, 2017
- D-6 The ██████████ Certificate of Vital Record, verified January 21, 2010
- D-7 DHHR Identity Declaration, signed July 2, 2009
- D-8 Social Security Card
- D-9 eRAPIDS Case Comments, dated January 29, 2004 through May 14, 2018
- D-10 eRAPIDS Case Summary
- D-11 eRAPIDS Case Benefit Summary Benefit Issuances dated, August 11, 2017 through May 1, 2018
- D-12 eRAPIDS Case Budget, beginning September 1, 2017 and May 1, 2018
- D-13 Medicaid Review Form, filed March 27, 2018
- D-14 DHHR Telephone Complaint Guide, dated May 14, 2018

- D-15 eRAPIDS Case Comments, dated August 11, 2017 through May 14, 2018
- D-16 West Virginia Mugshot Print-out, dated January 15, 2018 and July 7, 2018
- D-17 DHHR Facsimile Transmission Sheet, dated July 19, 2018
- D-18 West Virginia Income Maintenance Manual (WVIMM) §3.4.1 and §11.3 through §11.3.5

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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) On August 10, 2017, the Appellant applied for WVW caretaker-relative cash assistance for his minor granddaughter, [REDACTED]. (Exhibits D-2, D-9, and D-15)
- 2) On August 10, 2017, the Appellant signed WVW Rights and Responsibilities indicating that he agreed to notify the Respondent within 10 days if anyone moved in or out of his household and indicated that he understood if he failed to report changes that his assistance group may be required to repay any benefits he received. (Exhibit D-3)
- 3) The Appellant's daughter, [REDACTED], is the biological mother of [REDACTED]. (Exhibits D-6 and D-7)
- 4) The Appellant's WVW caretaker-relative cash assistance application was approved, and he received benefits from August 2017 through May 2018. (Exhibit D-11)
- 5) In November 2017, [REDACTED] began residing with the Appellant. (Exhibits D-9 and D-15)
- 6) The Appellant did not report that [REDACTED] had moved in to his home. (Exhibit D-13)
- 7) On May 14, 2018, a complaint was made to the Respondent indicating that [REDACTED] was residing in the Appellant's home and the Appellant may be receiving WVW benefits for which he was not entitled. (Exhibit D-14)
- 8) On May 14, 2018, the Appellant admitted to the Respondent that [REDACTED] had resided in his home since November 2017 and reported she would not be in the residence much longer. (Exhibits D-9 and D-15)
- 9) The Appellant received \$1,440 in WVW caretaker-relative cash assistance during the period of December 1, 2017 through May 31, 2018. (Exhibit D-11)
- 10) On May 23, 2018, the Respondent issued a notice advising the Appellant that a repayment claim had been established for WVW cash benefit overpayment during the period of December 1, 2017 through May 31, 2018 in the amount of \$1,440 due to a client error.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) §1.2.4 Client Responsibility provides in part:

The client's responsibility is to provide complete and accurate information about his circumstances so that the worker can make a correct determination about his eligibility.

WVIMM §3.4.1 Who Must Be Included in the WVW Assistance Group(AG) provides in part:

The following individuals must be included in the AG:

- The parent of the child identified when the parent lives with the child ...

WVIMM §10.5.2.A What Must Be Reported provides in part:

The client must report all changes in household composition.

WVIMM §10.5.2.B Timely Reporting provides in part:

For WVW cases, a client must report all changes in circumstances within 10 days.

WVIMM §10.5.4.D.1 Additions provide in part:

Additions to the AG are effective the month the change occurs, provided the individual is otherwise eligible. An individual who is added to an existing AG is treated as an applicant If a non-recipient work-eligible individual enters the household, he must complete orientation and a PRC/SSP as a condition of eligibility. Although he is not included in the AG, if he fails to cooperate in completing these activities, the AG will be ineligible for WVW.

WVIMM §11.3 Cash Assistance Claims and Repayment Procedures provides in part:

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.

WVIMM §11.3.3 Identifying the Months for Which Claims are Established provides in part:

When a client fails to report changes timely according to Section 10.5.2, and the change would have decreased benefits, a claim is established.

WVIMM §11.3.3.B Client Errors provides in part:

When the client fails to provide accurate or complete information, the first month of the overpayment is the month the unreported information would have affected the benefit level, considering reporting and notification requirements.

WVIMM §11.3.4.B Determining the First Month of Ineligibility provides in part:

In situations involving ineligibility, the first month of ineligibility is the month following the month in which the change occurs.

WVIMM §11.3.5 Collecting the Claim provides in part:

The following persons are equally liable for the total amount of overpayment and are liable debtors:

- Adults in the AG
- Caretaker relatives who signed the application at the time of overpayment
- An unreported adult who would have been required to be in the AG had he been reported

DISCUSSION

The Appellant was a recipient of WVW caretaker-relative cash assistance benefits on behalf of his minor granddaughter, [REDACTED]. The Respondent investigated and determined that the Appellant was overissued cash assistance benefits during the period of December 2017 through May 2018. A notice was issued advising the Appellant that due to a client error, he would be required to repay \$1,440 in cash assistance overpayment. The Appellant requested a fair hearing contesting the Respondent's decision to establish a repayment claim.

The Respondent had to prove that the Appellant failed to report that the mother of [REDACTED], [REDACTED], resided in the Appellant's home. Further, the Respondent had to prove that the Appellant was overissued WVW caretaker-relative cash assistance during the period of December 2017 through May 2018. The Respondent's evidence was corroborated during the hearing by the Appellant's admission that [REDACTED] began residing in his home in November 2017. During the hearing, the Appellant testified that he did not realize he was required to report [REDACTED] residing in his home; however, the Appellant's testimony affirmed that he affixed his signature to the Rights and Responsibilities, indicating at the time of application, he understood that household changes were required to be reported within 10 days. Although the Appellant's failure to report household changes was unintentional, policy requires repayment claims to be established when cash assistance benefits are overissued because of a client error that would have affected the eligibility or amount of cash assistance benefit.

The Appellant testified that [REDACTED] did not provide care for [REDACTED], was in and out of the home, slept on the couch, and has not been at the residence since March 2018. The Appellant's testimony that [REDACTED] was absent from his household beginning in March 2018 contradicts his previous report to the Respondent on May 14, 2018 that she resided at his residence and would not be residing there much longer. Although [REDACTED] did not provide care for [REDACTED], policy requires the parent of the recipient child to be included in the Appellant's AG. Pursuant to policy, [REDACTED] was considered an applicant and was required to complete eligibility activity requirements. As mandated by policy, because [REDACTED] did not complete eligibility requirements, the AG was ineligible for WVW beginning in December 2017.

The Appellant testified that it would be difficult for him to repay the benefit because of seasonal fluctuations in his income and inquired about the possibility of payment arrangements. The Respondent confirmed that payment arrangements could be made and directed the Appellant to contact his Respondent worker regarding current eligibility for caretaker-relative cash assistance benefits now that [REDACTED] is no longer residing in his household.

The evidence confirmed that the Appellant failed to report that [REDACTED] began residing in his home in November 2017 and verified that the Appellant was ineligible to receive WVW caretaker-relative cash assistance benefits during the period of December 2017 through May 2018. The Respondent was correct to establish a repayment claim against the Appellant's receipt of WVW caretaker-relative cash assistance benefits.

CONCLUSIONS OF LAW

- 1) The Appellant was receiving WV WORKS caretaker-relative cash assistance benefits on behalf of his minor granddaughter, [REDACTED], from August 2017 through May 2018.
- 2) The Appellant was required to report that [REDACTED], mother of [REDACTED] had moved into his household within 10 days of a change in his household composition.
- 3) The Appellant did not report that [REDACTED] began residing in his home beginning in November 2017.
- 4) As a parent of [REDACTED], [REDACTED] was required to be included in the Assistance Group (AG) with [REDACTED]
- 5) Because [REDACTED] did not comply with WV WORKS eligibility activities, the AG was ineligible to receive WV Works benefits beginning in December 2017.
- 6) The Respondent was correct to establish a repayment claim against the Appellant because of overpayment of WV WORKS caretaker-relative cash assistance benefits during the period of December 1, 2017 through May 31, 2018 due to client error.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's decision to establish a repayment claim against the Appellant due to WV WORKS caretaker-relative cash assistance overpayment during the period of December 1, 2017 through May 31, 2018.

ENTERED this 7th day of August 2018.

Tara B. Thompson
State Hearing Officer