



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

Bill J. Crouch
Cabinet Secretary

Jolynn Marra
Interim Inspector General

January 17, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR
BOR ACTION NO.: 18-BOR-2790

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: Brian Shreve, IFM, [REDACTED] Co. DHHR

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

██████████,

Appellant

v.

Action Number: 18-BOR-2790

**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 December 13, 2018, on an appeal filed November 20, 2018.

The matter before the Hearing Officer arises from the November 14, 2018 decision by the Respondent to establish a repayment of over-issued cash assistance benefits.

At the hearing, the Respondent appeared by Brian Shreve, Repayment Investigator with Investigations and Fraud Management. Appearing as witness for the Respondent was Darlene Bailey, Family Support Specialist. The Appellant appeared by her husband, ██████████. Presiding over the hearing was Steven Baisden, Hearing Official with the Board of Review. This case was reassigned to Lori Woodward, Hearing Official with the Board of Review, for decision.

All witnesses were sworn, and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Benefit Recovery Referral #9000254969 (BVRF) dated October 5, 2018
- D-2 Cash Assistance Claim Determination for Referral #9000254969 (es-c/u-5); Cash Assistance Claim Determination for Referral #7000254607 (es-c/u-5); Benefit Recovery Referral #9000254969 (BVRF) dated October 5, 2018; Benefit Recovery Referral #7000254607 (BVRF) dated September 12, 2018; Screen print of Rapids Case Household Information (ACCH); Screen print of Rapids Case Members History (AQCM); Screen print of Rapids WV WORKS Issuance History – Disbursement from December 1, 2017 through September 10, 2018 (IQAF); Screen print of WV WORKS Grant Determination / DCA Gross Test (EAWG),

- determination date July 24, 2018; Screen print of WV WORKS Grant Determination / DCA Gross Test (EAWG), determination date September 10, 2018
- D-3 Screen print from FACTS provider payment history, January 10, 2018 through October 5, 2018;
 - D-4 Screen print of Rapids Claims for Individuals (BVCI)
 - D-5 West Virginia Income Maintenance Manual (IMM), Chapter 3, §3.4.1.B
 - D-6 West Virginia Income Maintenance Manual (IMM), Chapter 11, §11.3
 - D-7 Notifications of Cash Assistance and/or School Clothing Allowance Overpayment (BV07), dated November 14, 2018
 - D-8 Right and Responsibilities (excerpt), signed and dated September 7, 2017

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/WVEAP (WV WORKS) caretaker benefits for her two grandchildren who were residing in her household.
- 2) On January 10, 2018, the Appellant's grandchildren began receiving foster care benefits. (Exhibit D-3)
- 3) The Appellant's WV WORKS worker received several system alerts that the grandchildren were receiving foster care payments, but the worker never acted upon those alerts.
- 4) Sometime in September 2018 another WV WORKS worker became aware that the Appellant's grandchildren had been receiving both cash assistance benefits and foster care payments since January 2018. A repayment referral was made. (Exhibit D-1)
- 5) The Appellant was ineligible to receive the WV WORKS caretaker benefits while her grandchildren were receiving foster care benefit payments.
- 6) The Appellant was over-issued WV WORKS cash assistance benefits from March 2018 through September 2018 for a total of \$2,217.

APPLICABLE POLICY

Individuals who are recipients of federal, state, or local foster care maintenance or an adoption assistance payment are ineligible to receive WV WORKS benefits. (IMM §3.4.1.B)

For WV WORKS cases, the client must report all changes in income, assets, household composition, and other circumstances. A client must report all changes in circumstances within 10 days. (IMM §§10.5.2.A. 10.5.2.B)

IMM, Chapter 6, Data Exchanges, instructs that there are two main electronic sources that provide verifications to the Department of Health and Human Resources (DHHR). These are the Federal Data Hub (the Hub) and the Income and Eligibility Verification System (IEVS). The IEVS is a computerized information system that performs data matches against several agency databases to verify certain types of income and/or assets. The information provided by these two main sources overlaps in some areas. The Worker accesses all information through the eligibility system.

IMM§ 6.2.2.A, explains that state data Provider income information is available the first working day after the second Friday of each month. Information received includes adoption, foster care, day care, and demand payments for the previous month. This information is considered verified upon receipt for SNAP and is not subject to independent verification for all programs.

IMM §11.3 requires pursuit of repayment for cash assistance overpayments made under the former Aid to Families with Dependent Children/Unemployed Parent (AFDC/U) Program, WV WORKS, Child Support Incentive (CSI), Temporary Assistance for Needy Families (TANF) Program, WV WORKS School Clothing Allowance, and the West Virginia School Clothing Allowance. The establishment, notification, and collection of cash assistance claims are the responsibility of the Claims and Collections Unit (CCU) and Investigations and Fraud Management (IFM). 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.

IMM §11.3.3.A.1, Agency Errors (AE), Failure to Take Prompt Action, instructs that the first month of overpayment is the month the change would have been effective had the agency acted properly.

DISCUSSION

The Appellant was receiving WV WORKS cash assistance benefits as a caretaker relative for her two grandchildren. In January 2018, the Appellant's grandchildren began receiving foster care benefits.

The Appellant's WV WORKS worker began receiving data exchange alerts regarding the foster care payments, however, took no action on the case. In September 2018, another WV WORKS worker became aware that the Appellant's grandchildren began receiving foster care benefits. Per policy, the Appellant's grandchildren were ineligible to receive cash assistance benefits while they

were receiving foster care payments. A repayment referral to the Respondent's Investigations and Fraud Management (IFM) unit was made. IFM determined that the Appellant was over-issued cash assistance benefits from March 2018 through September 2018 for a total of \$2,217. Because the Appellant's original WV WORKS worker had not acted on any of the data exchange alerts, the IFM unit determined the over-issuance was due to agency error. Notice of the repayment was sent to the Appellant on November 14, 2018.

The Appellant's representative did not contest the repayment. He did have issue with the policy which mandates repayment of over-issuances caused by an agency error -- specifically, in this case, due to "incompetence of the worker". The Board of Review does not have the authority to change policy. Instead, it must evaluate and weigh the facts and evidence presented, and review whether the Department followed policy, statute and regulation.

Per policy, the Appellant's grandchildren were ineligible to receive WV WORKS cash assistance payments while receiving foster care payments. The Respondent correctly determined that the overpayment was caused by the WV WORKS worker's failure to act on any of the data exchange alerts in a timely manner. Policy requires all over-issuances of cash assistance payments be repaid, regardless of the type of error. Therefore, the Respondent correctly established a repayment of the over-issued WV WORKS cash assistance benefits due to agency error from March 2018 through September 2018 in the amount of \$2,217.

CONCLUSIONS OF LAW

1. Policy does not allow children who are receiving foster care payments to simultaneously receive WV WORKS cash assistance benefits.
2. The Appellant's grandchildren received foster care payments from January 2018 through September 2018 while receiving cash assistance payments.
3. Although the Appellant's WV WORKS worker received several data exchange alerts regarding the foster care payments, the information was not added to the Appellant's case until sometime in September 2018.
4. Policy requires all over-issuances of cash assistance benefits be repaid regardless of the type of error.
5. The Respondent correctly established an agency error repayment claim from March 2018 through September 2018 for a total of \$2,217.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's proposal to establish an agency error repayment claim in the amount of \$2,217.

ENTERED this 17th day of January 2019.

Lori Woodward, State Hearing Officer