



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
Raleigh County District
407 Neville Street
Beckley, WV 25801**

**Jolynn Marra
Interim Inspector General**

September 8, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-1878

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Anisha Eye, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 20-BOR-1878

**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 September 2, 2020, on an appeal filed July 15, 2020.

The matter before the Hearing Officer arises from the June 5, 2020, decision by the Respondent to establish a repayment claim of WV WORKS cash assistance benefits against the Appellant.

At the hearing, the Respondent appeared by Anisha Eye, Repayment Investigator. The Appellant appeared *pro se*. Appearing as witnesses for the Appellant were ██████████, Social Worker with ██████████ and James Mincey, Supervisor with the Bureau for Child Support Enforcement. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request Notification Form
- D-2 Notification of Cash Assistance Overpayment dated June 5, 2020
- D-3 Assistance Claims Calculations Forms
- D-4 Cash Assistance Claim Determination Form
- D-5 WV WORKS Grant Determination/DCA Gross Test Screen Prints
- D-6 Non-Financial Eligibility Determination Screen Print
- D-7 WV WORKS Issuance History-Disbursement Screen Print
- D-8 Child Support Disbursements Screen Prints
- D-9 Case Narrative dated November 8, 2019
- D-10 TANF Overpayment Referral Form

- D-11 West Virginia Income Maintenance Manual §11.3
- D-12 West Virginia Income Maintenance Manual §4.5.3.A
- D-13 Personal Responsibilities Contract dated April 9, 2018
- D-14 Department's Summary

Appellant's Exhibits:

- A-1 Monthly Notice of Child Support Collected for September 2019
- A-2 West Virginia Department of Treasury Check dated October 18, 2019
- A-3 Money Order Paid to CASE of West Virginia dated November 1, 2019
- A-4 Notice of Decision dated November 25, 2019
- A-5 West Virginia Department of Treasury Check dated December 15, 2019
- A-6 Notice of Transportation Payment Approval for September 2019
- A-7 Monthly Notice of Child Support Collected for December 2019
- A-8 Notice of Child Support Incentive Payment dated December 16, 2019
- A-9 Notice of Decision dated December 19, 2019
- A-10 Participant Time Sheet for January 2020
- A-11 Notice of Transportation Payment Approval for December 2019
- A-12 Notice of Transportation Payment Approval for January 2020
- A-13 Monthly Notice of Child Support Collected for January 2020
- A-14 Notice of Decision dated January 30, 2020, page 1 of 6 – WV WORKS
- A-15 Notice of Decision dated January 30, 2020, page 5 of 6
- A-16 Notice of Decision dated January 30, 2020, page 1 of 6 – Medicaid
- A-17 Notice of Decision dated January 30, 2020, page 1 of 6 – SNAP
- A-18 Notice of Decision dated January 30, 2020, page 1 of 8 – SNAP and WV WORKS
- A-19 Notice of Decision dated February 14, 2020, page 1 of 8 – WV WORKS
- A-20 Notice of Decision dated February 14, 2020, page 7 of 8 – WV WORKS
- A-21 Child Support Disbursements Screen Print for August 2019 through August 2020
- A-22 Notice of Transportation Payment Approval for May 2020

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 cash assistance benefits.
- 2) The Appellant started receiving Child Support in August 2019 of \$493 monthly (Exhibit D-8).
- 3) On October 7, 2019, the Appellant reported to the Respondent's Bureau for Child Support Enforcement (BCSE) division that despite receiving her full court-ordered amount of Child Support, she was still receiving a WV WORKS cash assistance payment.

- 4) An audit of the Appellant's Child Support case was conducted, and it was discovered that due to a computer error, the Respondent's eligibility system did not recognize that the Appellant was receiving both cash assistance and Child Support simultaneously (Exhibits D-7 and D-8).
- 5) The Respondent contended that the Appellant's Child Support income exceeded the allowable limit for her to receive WV WORKS cash assistance.
- 6) A repayment claim of \$952 was established against the Appellant for WV WORKS cash assistance payments that were issued to the Appellant from November 2019 through January 2020 in error (Exhibits D-3 and D-4).

APPLICABLE POLICY

West Virginia Income Maintenance Manual §11.3 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.

West Virginia Income Maintenance Manual §11.3.3 states repayment claims are classified as agency errors, client errors or fraud.

Agency errors include:

- Failure to take prompt action - The first month of overpayment is the month the change would have been effective had the agency acted promptly
- Computation error - The first month of overpayment is the month the incorrect allotment was effective.

Client errors occur 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 notice and reporting requirements.

West Virginia Income Maintenance Manual §11.3.4.B states in situations involving ineligibility of WV WORKS cash assistance, the first month of repayment is determined as follows:

- Any month that countable income exceeds the payment level is an ineligible month, even if the case closure is for a reason other than increased income, except when the case becomes ineligible due to excessive, redirected child/spousal support.
- In all other cases, including cases that become ineligible due to excessive, redirected child/spousal support, the first month of ineligibility is the month following the month in which the change occurs

West Virginia Income Maintenance Manual §§4.5.3.A and 4.5.3.B states the AG is ineligible for WV WORKS benefits in any month that the countable monthly gross income exceeds 100% of the Standard Of Need (SON). The test is applied as follows:

- Step 1: Add together the total countable gross earned income, the gross profit from self-employment, and the countable gross unearned income of the AG and any disqualified person(s).
- Step 2: Determine the 100% of the SON amount in Appendix A for the appropriate AG size, excluding the disqualified person(s).
- Step 3: If the amount in Step 1 is greater than the amount in Step 2, the AG is ineligible.
- Step 4: If the amount in Step 1 is equal to or less than the amount in Step 2, the AG is eligible for further determinations.

Once the 100% of the SON test is met, the following steps are taken.

- Step 1: Add together the countable gross earned income of the AG and/or any disqualified person(s).
- Step 2: Subtract 40% of Step 1 (Earned Income Disregard).
- Step 3: Subtract the allowable Dependent Care Deduction.

This resulting amount is the Total Countable Earned Income.

- Step 4: Total all child support received by the AG and/or disqualified person(s).
- Step 5: Subtract the child support pass-through amount of up to \$100 or \$200 for children eligible for TANF.
- Step 6: Add all other countable unearned income of the AG and/or any disqualified person(s).

The resulting amount is the countable unearned income.

- Step 7: Add together the total countable earned and unearned income.

The resulting amount is the total monthly countable income.

- Step 8: Determine the maximum WV WORKS benefit amount for the AG size, using Appendix A.
- **Step 9: If the total countable income exceeds the maximum WV WORKS benefit amount, the AG is ineligible.** (emphasis added)
- If the total countable income is less than the maximum WV WORKS benefit amount, the AG is income eligible.
- Step 10: Subtract the total countable income from the maximum WV WORKS benefit amount.

The resulting amount is the WV WORKS benefit amount.

West Virginia Income Maintenance Manual Chapter 4 Appendix A lists 100% SON for a two-person AG as \$786 and the maximum WV WORKS benefit amount for a two-person AG is \$331.

DISCUSSION

Pursuant to policy, when an AG has been issued more WV WORKS cash assistance benefits than it was entitled to receive, corrective action is taken by establishing a repayment claim to recoup the overpaid benefits. Repayment claims are established regardless if the overpayment was the result of an agency error or client error.

The Respondent established a repayment claim against the Appellant from November 2019 through January 2020 when the Appellant's Child Support income exceeded the allowable limit for her to receive cash assistance benefits.

The Appellant testified that she reported to the Bureau for Child Support Enforcement and her WV WORKS case worker that she had started receiving Child Support payments because she knew she was not eligible to receive her full Child Support amount while receiving cash assistance. The Appellant contended that her Child Support income of \$493 did not exceed the income limit of \$786 to receive cash assistance and disputed the Respondent's claim that she was completely ineligible from November 2019 through January 2020. The Appellant argued that she reported the onset of the income timely as required and should therefore not be required to repay any payments that she may not have been eligible to receive.

To determine eligibility for WV WORKS cash assistance benefits, a recipient's total countable income must not exceed 100% of the Standard of Need for the size of the assistance group. Once this income test has been met, policy allows deductions from earned and unearned income to determine the assistance group's monthly cash assistance benefit. The Appellant did not have earned income; no earned income deductions can be applied. Policy does not allow deductions from unearned income, therefore the Appellant's Child Support income is the assistance group's total countable income. The total countable income is then compared to the maximum cash assistance payment amount for the size of the assistance group. The Appellant's Child Support of \$493 exceeds the maximum WV WORKS payment amount of \$331. The Appellant's income exceeded the allowable limit to receive WV WORKS cash assistance during the months she received Child Support.

CONCLUSIONS OF LAW

- 1) When an assistance group has been issued more WV WORKS cash assistance benefits than it was entitled to receive, corrective action is taken by establishing a repayment claim to recoup the overpaid benefits.
- 2) Due to an agency error, the Appellant was receiving Child Support and the maximum WV WORKS cash assistance payment simultaneously.
- 3) The Appellant's Child Support of \$493 exceeded the maximum WV WORKS benefit amount of \$331.

- 4) The Appellant's Child Support income was excessive to receive WV WORKS benefits.
- 5) Regardless of the type of error, all overpaid benefits must be recouped.
- 6) The Appellant is responsible to repay the WV WORKS cash assistance benefits for which she was not eligible to receive.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to establish an agency error repayment claim against the Appellant for an overpayment of WV WORKS cash assistance benefits.

ENTERED this 8th day of September 2020.

**Kristi Logan
State Hearing Officer**