



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review**

**Jeffrey H. Coben, MD
Interim Cabinet Secretary**

**Sheila Lee
Interim Inspector General**

June 29, 2023



RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-1911

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Birdena Porter, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 23-BOR-1911

**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 27, 2023.

The matter before the Hearing Officer arises from the June 1, 2023, decision by the Respondent to seek repayment of WV WORKS benefits.

At the hearing, the Respondent appeared by Birdena Porter, Repayment Investigator, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision dated December 14, 2020
- D-2 Document for Protection of Application date and Rights and Responsibilities dated February 19, 2020
- D-3 Case Benefit Summary
- D-4 Client Payment History Reports for Foster Care benefits
- D-5 Notification of Cash Assistance and/or School Clothing Allowance Overpayment dated June 1, 2023
- D-6 West Virginia Income Maintenance Manual Chapters 3.3.2 and 3.4.1.B

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 has been the foster parent of two minor children through a kinship relative placement since February 2020.
- 2) The Appellant received WV WORKS benefits for the foster children from February 2020 through March 31, 2021 (D-3).
- 3) The Appellant received her first Foster Care assistance payments for the children on December 31, 2020 (Exhibit D-4).
- 4) The Appellant did not report the receipt of Foster Care payments in a timely manner.
- 5) The Appellant was notified on June 1, 2023, that she received an overpayment of \$960 in WV WORKS benefits as the result of a client error caused by unreported unearned income (Exhibit D-5).
- 6) The overpayment covers the period of February 2021 through March 2021 (Exhibit D-5).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 3.4.1.B states that individuals who are recipients of federal, state, or local foster care maintenance or an adoption assistance payment are ineligible to receive WV WORKS benefits.

West Virginia Income Maintenance Manual Chapter 11.3.3 states that 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. Section 10.5.2.B states that for WV WORKS cases, a client must report all changes in circumstances within 10 days.

West Virginia Income Maintenance Manual Chapter 11.3.3.B states that 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 reporting and noticing requirements.

West Virginia Income Maintenance Manual Chapter 11.3.5 states that the following persons are equally liable for the total amount of overpayment and are liable debtors:

- Adult or emancipated minors in the Assistance Group (AG)
- Disqualified individuals who would otherwise be required to be included
- Caretaker relatives who signed the application/redetermination at the time of overpayment
- An unreported adult who would have been required to be in the AG had he been reported
- Sponsors of noncitizen AGs when the sponsor is responsible for the overpayment

When the AG composition changes, collection is pursued against any and all AGs that include a liable debtor.

DISCUSSION

Policy states that individuals who are recipients of federal, state, or local foster care maintenance or an adoption assistance payment are ineligible to receive WV WORKS benefits. When a client fails to report changes timely, and the change would have decreased benefits, a claim is established.

The Appellant testified that the foster children came into her care in 2020 just before the Covid-19 public health emergency began. She stated that she did not complete foster care training and was under the impression that she would only receive WV WORKS benefits for the children. The Appellant indicated that she had several different case workers and is unsure who started her foster care payments. The Appellant testified that the youngest foster child did almost \$8,000 worth of damage to her home for which she was never reimbursed. She contended that she cannot access her mobile deposit information to verify whether she received the foster care payments.

While the Appellant indicated that she could not verify receipt of the foster care payments, the Respondent's computer system shows that the foster care payments began in December 2020. As a result, the Appellant's decision to seek repayment of WV WORKS benefits is affirmed.

CONCLUSIONS OF LAW

- 1) Policy states that individuals who are recipients of federal, state, or local foster care maintenance or adoption assistance payments are ineligible to receive WV WORKS benefits.
- 2) The Appellant received foster care benefits beginning in December 2020.
- 3) The Appellant was approved for WV WORKS benefits in February 2020.
- 4) As foster care and WV WORKS benefits cannot be received simultaneously, the Respondent's decision to seek repayment of WV WORKS benefits is affirmed.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Respondent's action to seek repayment of WV WORKS benefits.

ENTERED this 29th day of June 2023.

**Pamela L. Hinzman
State Hearing Officer**