



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

**Sherri A. Young, DO, MBA, FAAFP
Interim Cabinet Secretary**

**Christopher G. Nelson
Interim Inspector General**

August 03, 2023

[REDACTED]

Re: [REDACTED] v WV DHHR
ACTION NO.: 23-BOR-2188

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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

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

cc: Birdena Porter, Repayment Investigator, Investigations and Fraud Management

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) On July 20, 2021, the Appellant applied for WV WORKS Cash Assistance Caretaker Relative (WV WORKS) benefits for her granddaughter, [REDACTED], who resides in her household. (Exhibit D-1)
- 2) At the time of application, the Appellant signed acknowledgement that she understood her Assistance Group (AG) may be required to repay any benefits for which the AG was not eligible because of errors made by either the Appellant or the Respondent. (Exhibit D-1)
- 3) In July 2021, the Appellant began receiving WV WORKS benefits in the amount of \$417 per month for Child [REDACTED] (Exhibits D-2 through D-5)
- 4) In February 2022, the Appellant began receiving foster care payments for child, [REDACTED] (Exhibit D-5)
- 5) On an unknown date, the Respondent initiated a repayment investigation, alleging the Appellant received both WV WORKS and foster care payments simultaneously. (Exhibit D-1)
- 6) The Respondent's Front-End Fraud Unit (FEFU) completed an investigation and determined that the Appellant received an overpayment of \$2,967 in WV WORKS benefits as the result of a client error caused by unreported unearned income for child, [REDACTED], for the time period of March 01, 2022 through August 31, 2022. (Exhibits D-1, D-4, D-5, and D-6)
- 7) On July 03, 2023, the Respondent issued a Notification of Cash Assistance and/or School Clothing Allowance repayment claim in the amount of \$2,967 against the Appellant to recoup the over-issuance of WV WORKS benefits for the time period of March 01, 2022 through August 31, 2022 due to the Appellant's failure to report unearned income. (Exhibit D-6)
- 8) The Appellant contested the July 03, 2023 repayment claim, and on July 13, 2023, requested a Fair Hearing. (Exhibit D-6)
- 9) The Appellant does not dispute the repayment claim amount of \$2,967, or the classification of "client error."

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 1.2.4 reads:

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

or her eligibility.

WV IMM § 3.3.2 provides, in part:

The child must be living with a specified relative, who assumes primary responsibility for the child's care, in a place established as the relative's home. In order for an individual to be a caretaker relative, he must be a specified relative. Legal custody or guardianship of a child does not, in itself, qualify a person as a specified relative.

WV IMM § 3.4.1.B provides, in part:

Individuals who are recipients of federal, state, or local foster care maintenance or an adoption assistance program are ineligible for WV WORKS/Cash Assistance.

WV IMM § 6.1.2 provides, in part:

The IEVS provides the DHHR with additional sources of information for use in determining eligibility and the amount of the benefit for applicants and clients. This information is provided to the Worker through data exchanges.

Through the eligibility system, DHHR staff receive information obtained through data exchanges with other governmental agencies. The IEVS procedures ensure that appropriate Internal Revenue Service (IRS) privacy and procedural safeguards are applied in the use of the information. The same precautions with privacy and procedural safeguards apply to information received through the FDH.

Information obtained through IEVS is used for the following purposes:

- To verify the eligibility of the assistance group (AG)
- To verify the proper amount of benefits
- To determine if the AG received benefits to which it was not entitled
- To obtain information for use in criminal or civil prosecution based on receipt of benefits to which the AG was not entitled. Federal regulations require use of the following data exchanges that are provided using the IEVS:
 - WorkForce West Virginia –
 - Wage and unemployment compensation information (UCI) data is available.
 - Internal Revenue Service (IRS) – Unearned income data is available.
 - Social Security Administration (SSA) – Retirement, Survivors and Disability Insurance (RSDI), Supplemental Security Income (SSI), and net earnings from self-employment data are available.

NOTE: Federal Medicaid regulations require the utilization of the following IEVS data sources when nothing is returned from the Hub or when discrepancies exist that are not reasonably compatible: WorkForce WV, IRS and SSA.

WV IMM § 10.5.2.B provides, in part:

For WV WORKS cases; a client must report all changes in circumstances within ten (10) days.

WV IMM § 11.3 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 overpayment. The claim is the difference between the amount of benefits received and the amount of benefit to which the AG was entitled to receive.

WV IMM § 11.3.3.A.1 provides, in part:

The first month of overpayment is the month the change would have been effective had the agency acted properly is considered an Agency Error.

WV IMM § 11.2.3.A.2 provides, in part:

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.

DISCUSSION

Policy stipulates that when an assistance group has received more cash assistance than it was entitled to receive, corrective action is taken by establishing a claim for the overpayment. Repayment claims are established regardless of whether the overpayment was a result of agency error or client error. The Respondent had to prove by a preponderance of evidence that it correctly followed the policy when establishing a repayment claim against the Appellant.

The Respondent testified that in February 2022, the Appellant began receiving foster care payments for granddaughter, [REDACTED] in conjunction with WV WORKS benefits. Because individuals who are recipients of federal, state, or local foster care maintenance or an adoption assistance program are ineligible for WV WORKS benefits, the Respondent's Front-End Fraud Unit (FEFU) received an investigation referral in order to determine the possibility of an over-issuance of WV WORKS benefits, alleging the Appellant failed to report the receipt of foster care payments. Upon completion of the investigation, it was determined that the Appellant received an overpayment of \$2,967 in WV WORKS benefits for the time period of March 01, 2022, through August 31, 2022, due to the Appellant's failure to report the unearned income (foster care payments) for child, [REDACTED]. On July 03, 2023, the Respondent issued a Notification of Cash Assistance and/or School Clothing Allowance repayment claim in the amount of \$2,967 to the Appellant in order to recoup the over-issuance of WV WORKS benefits. Because the alleged overpayment of WV WORKS benefits was caused by the Appellant's failure to provide accurate or complete information, the claim was considered a "client error." The Respondent testified that at the time of application, the Appellant signed the Rights and Responsibilities form acknowledging that she understood her Assistance Group (AG) may be required to repay any

benefits for which the AG was not eligible because of errors made by either the Appellant or the Respondent.

At the time of the hearing, the Appellant did not contest the Respondent's decision to establish a WV WORKS repayment claim, the amount of over-issuance, or the Respondent's determination that a "client error" led to the overpayment. The Appellant testified that "it was an honest mistake," and that she was unaware of her ineligibility to receive both, WV WORKS and foster care payments simultaneously. The Appellant reasoned that, because all correspondence regarding her foster care payments and WV WORKS benefits were issued by the DHHR, she was under the assumption that the Respondent was aware she was receiving both benefits. She further testified that she was confused and unaware that she needed to report the foster care payments to the same entity that both benefits were issued by and testified that she is not "looking to get something" that she "shouldn't receive."

While the Appellant admittedly acknowledged failing to report changes in income within ten (10) days to the Department; the policy is clear that when an AG has been issued more cash assistance than it was entitled to receive, corrective action must be taken by establishing a repayment claim whether the error was caused by the client or the agency. Additionally, the Respondent established the repayment claim within the applicable timeframes, per policy. As a result of this "client error," the Appellant received an over-issuance of WV WORKS benefits from March 01, 2022, through August 31, 2022, in the amount of \$2,967.

CONCLUSIONS OF LAW

- 1) The Appellant received foster care payments for child, [REDACTED], from February 01, 2022 through August 31, 2022, while simultaneously receiving WV WORKS benefits.
- 2) Pursuant to policy, individuals who are recipients of federal, state, or local foster care maintenance or an adoption assistance program are ineligible for WV WORKS.
- 3) When an AG receives more WV WORKS benefits than it is entitled to receive, a repayment claim must be established.
- 4) Because the Appellant received \$2,967 in benefits than she was entitled to receive during the months of March 01, 2022, through August 31, 2022, corrective action must be taken by establishing a repayment claim, whether the error was caused by the client or the agency.
- 5) Because the overissuance of WV WORKS benefits was a result of the Appellant's failure to report unearned income to the Respondent within ten (10) days as established by policy, the claim is considered a "client error."

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to seek repayment of the Appellant's WV WORKS benefits received from March 01, 2022, through August 31, 2022, in the amount of \$2,967 as a result of a "client error."

ENTERED this _____ day of August 2023.

Angela D. Signore
State Hearing Officer