



March 25, 2025

[REDACTED]

RE: [REDACTED] v. OIG/IFM
ACTION NO.: 25-BOR-1371

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. 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, J.D.
Certified State Hearing Officer
Member, State Board of Review

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

cc: Jake Wegman, Esq., Assistant Attorney General

**BEFORE THE WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

██████████,

Appellant,

v.

Action Number: 25-BOR-1371

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS AND FRAUD MANAGEMENT**

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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on March 12, 2025.

The matter before the Hearing Officer arises from the July 17, 2024 decision by the Respondent to establish a repayment claim of WVWORKS/WV EAP (Cash Assistance) benefits.

At the hearing, the Respondent appeared by and through counsel, Jake Wegman, Assistant Attorney General. Appearing as a witness for the Respondent was Birdena Porter, Repayment Investigator. The Appellant appeared *pro se*. All witnesses were sworn, and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Department of Human Services State of West Virginia Combined Application and Review Form for Financial, Medical, and Supplemental Nutrition Assistance Program, signed and dated April 11, 2022; West Virginia Department of Health and Human Resources Rights and Responsibilities, signed and dated April 11, 2022; Department of Health and Human Services WV WORKS Caretaker Relative Option, signed and dated April 11, 2022
- D-2 Department of Human Services State of West Virginia Combined Application and Review Form for Financial, Medical, and Supplemental Nutrition Assistance Program, signed and dated May 11, 2023; West Virginia Department of Health and Human Resources Rights and Responsibilities, signed and dated May 11, 2023;

- Supplemental Nutrition Assistance Program (SNAP) – 6 or 12 month contact form (PRC2) signed and dated November 14, 2023
- D-3 Cash Assistance Claim Determination, entered into RAPIDS July 9, 2024; Notification of Cash Assistance and/or School Clothing Allowance Overpayment, dated July 14, 2024
- D-4 Screen print of Case Benefit Summary for ACDW payments, September 1, 2022 - April 1, 2024; Screen print of Case Benefit Summary for ACDI payments August 20, 2022 – April 20, 2024
- D-5 Screen print of Individual Participation History for [REDACTED] November 8, 2021 – March 31, 2023; Screen print of Individual Participation History for [REDACTED] July 12, 2019 – March 31, 2023; Screen print of Individual Participation History for [REDACTED] January 1, 2022 – May 1, 2024; Screen print of Individual Participation History for [REDACTED] January 1, 2022 – May 1, 2024
- D-6 Screen print of Foster Care Payments for [REDACTED] paid to [REDACTED]
- D-7 WV Income Maintenance Manual (WV IMM), Chapter 3.4.1.B (excerpt)

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 applied for Cash Assistance benefits on April 11, 2022 as a caretaker relative for her four grandchildren, [REDACTED] (Exhibit D-1)
- 2) The Appellant began receiving Foster Care payments for her four grandchildren beginning September 1, 2022. (Exhibit D-6)
- 3) The Appellant received Cash Assistance [REDACTED] benefits as a caretaker relative for her grandchildren, [REDACTED] in September 2022 through February 2023, while receiving Foster Care payments in the amount of \$790 per month each. (Exhibits D-4, D-5, D-6)
- 4) The Appellant received Cash Assistance [REDACTED] benefits as a caretaker relative for her grandchildren, [REDACTED] from September 2022 through March 2024, while receiving Foster Care payments in the amount of \$851 per month for each child, with the exception of April 2023 of \$840 for grandchild [REDACTED] (Exhibits D-4, D-5, D-6)
- 5) The Appellant received Child Support Incentive (CSI) payments, which are a part of the WV WORKS program.

- 6) On May 11, 2023, the Appellant reapplied for Cash Assistance benefits for her grandchildren [REDACTED] (Exhibit D-2)
- 7) The Appellant completed a Supplemental Nutrition Assistance Program (SNAP) – 6 or 12 month contact form (PRC-2), signed and dated November 14, 2023. (Exhibit D-2)
- 8) The November 2023 PRC-2 included her grandchildren [REDACTED] in her AG, reporting gross unearned income of \$687.06 (source unspecified) without any increases or decreases more than \$125 since she last reported a change. (Exhibit D-2)
- 9) The Appellant failed to report her Foster Care payments.
- 10) The Appellant's AG was ineligible for Cash Assistance benefits because she was receiving Foster Care payments for her grandchildren. (Exhibit D-7)
- 11) On July 17, 2024, the Respondent determined the Appellant was over-issued Cash Assistance and CSI benefits from September 2022 through March 2024. (Exhibit D-3)
- 12) The Respondent issued a notice of Cash Assistance overpayment to the Appellant on July 17, 2024, advising that a repayment claim of \$10,369 had been established for Cash Assistance and CSI benefits that were issued from September 2022 through March 2024 due to fraud caused by unearned income. (Exhibit D-3).

APPLICABLE POLICY

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

A WV WORKS client must receive at least 13 days advance notice of Assistance Group (AG) closure prior to the first day of the month in which the benefits are affected. (WV IMM, Chapter 9, §9.3.1)

Individuals who are recipients of federal, state, or local foster care maintenance or an adoption assistance payment are ineligible to receive WV WORKS benefits. (WV IMM, Chapter 3, §3.4.1.B)

If DoHS made a Foster Care payment, a WV WORKS payment cannot be initiated for the same period because this results in a duplication of payments. (WV IMM, Chapter 3, §3.3.2)

Child Support Incentive (CSI) is a \$25 benefit increase provided to any WV WORKS (TANF) AG when child support, in any amount, is collected for a child in the AG. This payment is in addition to the child support pass-through. The CSI is applicable, even when the family is eligible for the maximum WV WORKS payment. When received in error, the CSI is subject to repayment. Received in error includes, but is not limited to, BCSE credited a payment to the wrong case, or

the client failed to report income and received a WV WORKS benefit in error. (WV IMM, Chapter 4, §§4.5.3.D, 4.5.3.D.5)

Repayment is pursued 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 Support Service Payments, WV WORKS School Clothing Allowance, and the West Virginia School Clothing Allowance. 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. A claim is established when a client fails to report changes timely and the change would have decreased benefits. The claim is the difference between the amount of benefits received and the amount of benefits to which the AG was entitled. (WV IMM, Chapter 11, §11.3, §11.3.3)

A client error claim is established 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. (WV IMM, Chapter 11, §11.3.3.B)

A fraud claim is defined as any claim established as a result of an investigation conducted by the Criminal Investigation Unit and subsequent court order is classified as a fraud claim. (WV IMM, Chapter 11, §11.3.3.C)

DISCUSSION

Preliminary Issue – Timeliness of Hearing Request

Prior to resting his case, Mr. Wegman raised the issue of the timeliness of the Appellant's February 14, 2025 appeal as the Repayment Notice was issued on July 17, 2024 (Exhibit D-3). The testimony provided by the Respondent's witness confirmed that the one-page July 17, 2024 Notice was the complete notice sent to the Appellant. The July 17, 2024 Notice failed to include statutorily required information regarding the Appellant's hearing rights and Legal Aid information. Thus, although the appeal is untimely, due to the deficiency of the July 17, 2024 Notice, the Appellant's appeal will be heard in order to preserve her due process rights.

WV WORKS (Cash Assistance)/Child Support Incentive

On April 11, 2022, the Appellant applied for Cash Assistance benefits as a caretaker relative for her four grandchildren [REDACTED]. The Appellant received Cash Assistance benefits as a caretaker relative for all four grandchildren from April 2022 through March 2023. Beginning April 2023, the Appellant's grandchildren [REDACTED] were removed from her AG. Thereafter, the Appellant received Cash Assistance benefits for her grandchildren [REDACTED] until March 2024.

On September 1, 2022, the Appellant began receiving Foster Care payments for her grandchildren - \$790 per month each for grandchild, [REDACTED] and \$851 per month each for grandchild, [REDACTED] (with the exception of April 2023 of \$840 for grandchild [REDACTED]). The Appellant did

not report the receipt of this income. The Appellant had an opportunity to report this income on May 11, 2023, when she reapplied for Cash Assistance benefits for her grandchildren [REDACTED] and on her PRC-2 for SNAP benefits submitted on November 14, 2023. Additionally, the Appellant received a total of \$325 in CSI payments during this time, which was unreported.

The Appellant unconvincingly testified that she was unaware of receiving the Cash Assistance benefits. The Appellant averred that when the children were first placed with her in 2022, the judge ordered her to apply for benefits for the children. The Appellant averred she did not think she was doing anything wrong. Although the Appellant was not receiving the Foster Care payments and CSI income on the first application in April 2022, she was receiving those benefits by the May 2023 application and November 2023 review. The Appellant was under a duty to report this income within 10 days of receiving it, and at the very least on the May 2023 application and November 2023 review. The Appellant failed to do so.

OVERPAYMENT

Policy specifically excludes those individuals who receive Foster Care payments from simultaneously receiving Cash Assistance benefits. The Appellant was responsible to report the Foster Care income, which she did not. As the Appellant received her first Foster Care payment on September 1, 2022, by policy, this should have been reported by September 11, 2022. As policy requires at least 13 days' notice prior to adverse action being taken, the Appellant was ineligible to receive the Cash Assistance benefits beginning October 2022. Thus, the Appellant was overpaid Cash Assistance and CSI benefits from October 2022 through March 2024. The Respondent's calculation of the Appellant's overpayment period is incorrect.

Policy mandates that repayments for WV WORKS and CSI overpayments are pursued. Three causes of overpayment are recognized under policy: Agency Errors, Client Errors, and Fraud. The Respondent established the overpayment as Fraud. Overpayment based on Fraud is defined as a result of an investigation conducted by the Criminal Investigation Unit and subsequent court order. There was no evidence or testimony presented to show that this was the case in the Appellant's overpayment. Thus, the Respondent failed to show by a preponderance of evidence that the Appellant was overpaid WV WORKS and CSI benefits due to Fraud.

However, the Respondent did show by a preponderance of evidence that the Appellant failed to report the Foster Care and CSI income, which she was required to do. Thus, due to the Appellant's failure to report the income, the Appellant was overpaid Cash Assistance and CSI benefits for which she was ineligible to receive due to Client Error.

CONCLUSIONS OF LAW

- 1) Policy establishes that individuals receiving Foster Care payments are ineligible for WV WORKS benefits.
- 2) The Appellant began receiving Foster Care payments on September 1, 2022.

- 3) Because the Appellant failed to report the Foster Care payments which made her ineligible for Cash Assistance benefits, she was overpaid Cash Assistance benefits from October 1, 2022 through March 2024, due to client error.
- 4) The Respondent must establish a repayment claim for the Cash Assistance and CSI benefits from October 1, 2022 through March 2024.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to establish a Fraud repayment claim of the Cash Assistance and CSI benefits. The matter is **REMANDED** to establish the repayment claim as Client Error and recalculate the repayment to begin October 1, 2022 through March 2024.

ENTERED this 25th day of March 2025.

Lori Woodward, Certified State Hearing Officer