



July 25, 2025

[REDACTED]

RE: [REDACTED] v. OIG/IFM
ACTION NO.: 25-BOR-2276

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 Human Services. These same laws and regulations are used in all cases to ensure 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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: Steven Compton, AAG

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

██████████,

Appellant,

v.

Action Number: 25-BOR-2276

**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 July 17, 2025, on an appeal filed with the Board of Review on June 23, 2025.

The matter before the Hearing Officer arises from the June 12, 2025 decision by the Respondent to seek a repayment of an overissuance of West Virginia Works caretaker relative cash assistance benefits.

At the hearing, the Respondent appeared by Steven Compton, Assistant Attorney General. Appearing as a witness for the Respondent was Lisa Snodgrass, Repayment Investigator. The Appellant was self-represented. Appearing as witness for the Appellant was ██████████, the Appellant's spouse. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Request for WV WORKS Cash Assistance dated September 6, 2024
- D-2 Case Comments
- D-3 Foster Care Payee Summary
- D-4 Cash Assistance Claim Determination
- D-5 Case Benefit Summary
- D-6 West Virginia Income Maintenance Manual Income Chart Chapter 4 Appendix A
- D-7 West Virginia Income Maintenance Manual excerpts

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 is the grandfather to minor child, [REDACTED]
- 2) On August 7, 2024, the Respondent's Bureau for Social Services obtained legal custody of the minor child. (Exhibit D-1).
- 3) On August 7, 2024, the Respondent's Bureau for Social Services placed physical custody of the minor child with the Appellant.
- 4) On August 15, 2024, the Appellant applied for West Virginia Works (WV WORKS) caretaker cash assistance. (Exhibit D-2)
- 5) The Appellant was approved for WV WORKS cash assistance for the month of August 2024 in the amount of \$250.00.
- 6) The Appellant began receiving a monthly WV WORKS cash assistance benefit in the amount of \$417.00 beginning in September 2024.
- 7) The Appellant began receiving foster care payments for the minor child on August 2, 2024. (Exhibit D-3)
- 8) The Appellant received WV WORKS cash assistance from August 2024 through May 2025 for a total amount of \$4003.00. (Exhibit D-4)
- 9) The Appellant received WV WORKS cash assistance benefits in error due to the receipt of foster care payments.
- 10) The Appellant was overissued WV WORKS cash assistance benefits in the amount of \$4003.00.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 11.3 documents:

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.

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. The policy by which cash assistance claims are referred, established, collected, and maintained follows.

Once the claim is established, there are no hardship provisions or exceptions that delay, suspend, or terminate efforts to collect the claim.

West Virginia Income Maintenance Manual Chapter 11.3.3.A documents:

Agency Errors

11.3.3.A.1 Failure to Take Prompt Action

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

West Virginia Income Maintenance Manual Chapter 3.4.1.B documents:

Individuals who fit in at least one of the following categories are ineligible. When all members of the AG meet any of the criteria listed below, the entire case is ineligible. In addition, when all otherwise eligible children meet any of the criteria listed below, except receipt of foster care, adoption assistance, or SSI benefits for a dependent child is age 18 or over, the AG is ineligible.

- Individuals who are noncitizens and are ineligible because they have been sponsored by a private or public agency or organization, or because of deeming income from sponsor to noncitizen.
- Individuals who do not meet the citizenship requirements of Chapter 15.
- Individuals, age 18 or over, who are eligible for SSI benefits as determined by the Social Security Administration (SSA).
 - o This includes individuals who are approved, but who have not yet received a payment and individuals for whom benefits are temporarily suspended due to overpayment.
- Individuals who are recipients of federal, state, or local foster care maintenance or an adoption assistance payment.
- The child(ren) of a minor parent (mp) when the minor parent (mp) is a recipient of federal foster care payment.
- An unemancipated minor parent (mp).

- o A currently unemancipated parent (whose youngest child is at least 12 weeks old) who has not completed high school, unless the parent(s) participates in, or in the case of an applicant, agrees to participate in: educational activities directed toward attainment of a high school diploma or equivalent; or, an alternative educational or training program.
- o A currently unemancipated parent, under age 18, and the child(ren) of such parent, who do not live with at least one parent of the mp.
- o See Section 3.3 for the definition of emancipation.
- Individuals who are recipients of an Independent Living Subsidy through the Division of Children and Adult Services.
- The child(ren) of a parent, when the parent is a recipient of an Independent Living Subsidy through the Division of Children and Adult Services.
- A child who is absent from his home for 30 consecutive days.
 - o A child may be absent from his home for more than 30 consecutive days and remain a WV WORKS client only if the reason for the absence is one of the following:
 - Medically substantiated mental or physical illness of a parent or other caretaker necessitates other temporary living arrangements for the child.
 - Medically substantiated mental or physical illness of the child necessitates other temporary arrangements for the child.
 - The child receives education or training at a special needs school and residence outside the home is required to begin or continue such education.
 - A natural disaster forces the child to live apart from the parent(s) or other caretaker(s).
 - The Personal Responsibility Contract/Self-Sufficiency Plan (PRC/SSP) has targeted a family problem that requires the child to be absent from the home for more than 30 consecutive days.

DISCUSSION

Pursuant to policy, 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. The claim is the difference between the amount of benefits received and the amount of benefits to which the assistance group was entitled. Policy stipulates that anyone receiving state, federal or local Foster Care payments is ineligible to be included in the WV WORKS cash assistance benefit.

In June 2025, the Respondent established a repayment claim of \$4003.00 in WV WORKS caretaker relative cash assistance that were issued from August 2024 through May 2025 for the Appellant's granddaughter. The Respondent asserts that the Appellant was receiving duplicate Foster Care payments while receiving WV WORKS caretaker relative cash assistance benefits and was therefore ineligible. The Appellant protests this decision contending that the overissuance of benefits was due to an agency error for which he should not be responsible. The Respondent must prove by a preponderance of the evidence that the Appellant was overissued WV WORKS caretaker relative cash assistance benefits for which his household was not entitled to receive.

In August 2024, the Appellant received physical custody of his granddaughter through placement

from the West Virginia Department of Human Services Bureau of Social Services (BSS) division. The Appellant's WV WORKS caretaker relative application was approved in August 2024. The Respondent's witness, Lisa Snodgrass, Repayment Investigator, purports that the Appellant began receiving Foster Care in the same month of the WV WORKS caretaker relative cash assistance application; therefore, he was ineligible for WV WORKS caretaker relative cash assistance.

The Appellant testified that at his application for WV WORKS cash assistance, the caseworker informed him that the WV WORKS caretaker relative cash assistance benefits would cease upon the receipt of the Foster Care payments. The Appellant stated that he received \$790.00 in Foster Care payments in December 2024 and reported the information to his WV WORKS caseworker. The Appellant indicated that he believed the benefits were terminated and has not accessed the Electronic Benefits Transfer (EBT) card. The Appellant estimated that approximately \$1200.00 remains on the EBT card and both parties were in the process of working an arrangement to expunge the unused benefits for payment on the overissuance claim. The Appellant proffered questions as to why he received a total amount of \$3272.00 in foster care maintenance payments but was required to repay the total issuance of \$4003.00 in WV WORKS cash assistance.

Based on an evidentiary review, the Appellant's grandchild remained in his custody for a six-month period commencing in August 2024 and terminating in February 2025. Evidence documents that the Appellant received Foster Care payments from August 2024 through February 2025. The Appellant continued to receive WV WORKS caretaker relative assistance through May 2025.

The preponderance of evidence revealed that the Appellant's granddaughter was receiving Foster Care payments while simultaneously receiving WV WORKS caretaker relative cash assistance. Policy prohibits the receipt of Foster Care and cash assistance during the same months; therefore, any cash assistance benefits issued on behalf of his granddaughter were issued in error. Whereas the Appellant was issued more cash assistance benefits than he was entitled to receive, the Respondent acted in accordance with policy by establishing a repayment claim.

CONCLUSIONS OF LAW

- 1) 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.
- 2) Anyone receiving state, federal or local Foster Care payments are ineligible to be included in the WV WORKS caretaker relative cash assistance benefit.
- 3) The Appellant's granddaughter received Foster Care payments and WV WORKS caretaker relative cash assistance simultaneously.
- 4) The Appellant is required to repay WV WORKS caretaker relative cash assistance benefits issued for his granddaughter which receiving Foster Care payments.

DECISION

It is the decision of the State Hearing Officer to uphold the decision of the Respondent to establish a repayment claim for WV WORKS caretaker relative cash assistance benefits for his granddaughter while receiving Foster Care payments.

ENTERED this ____ day of July 2025.

Eric L. Phillips
State Hearing Officer