



STATE OF WEST VIRGINIA  
OFFICE OF INSPECTOR GENERAL  
Board of Review

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

Ann Vincent-Urling  
Interim Inspector General

March 21, 2024

[REDACTED]

RE: [REDACTED] v. WVD<sub>o</sub>HS  
ACTION NO.: 24-BOR-1531

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,

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

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

cc: Birdena Porter, DoHS

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

██████████,

**Appellant,**

v.

**Action Number: 24-BOR-1531**

**WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES  
BUREAU FOR FAMILY ASSISTANCE,**

**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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on March 19, 2024.

The matter before the Hearing Officer arises from the Respondent's proposal to seek repayment of WV WORKS benefits as outlined in a notice dated February 26, 2024.

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

**Department's Exhibits:**

- D-1 Combined Application and Review Form signed by Appellant on October 25, 2021
- D-2 Case Benefit Summary
- D-3 Order Terminating Appointment of Guardian (hearing date – December 8, 2022)
- D-4 Case Comments from Respondent's computer system
- D-5 Notice of Decision dated March 22, 2023
- D-6 Notification of Cash Assistance and/or School Clothing Allowance Overpayment dated February 7, 2024
- D-7 West Virginia Income Maintenance Manual Chapters 3.4.1.A and 10.5.2

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 completed a WV WORKS application for cash assistance as a caretaker relative for child [REDACTED] on October 25, 2021 (Exhibit D-1).
- 2) The Appellant continued to receive cash assistance benefits for [REDACTED] through April 2023 (Exhibit D-2).
- 3) The Appellant's guardianship of [REDACTED] was terminated in December 2022 and the child was returned to her mother's custody (Exhibit D-3).
- 4) The Appellant failed to report that [REDACTED] was no longer in her home (Exhibit D-4).
- 5) A Department worker contacted the Appellant on or about March 21, 2023, after discovering a court order that indicated [REDACTED] was no longer in the Appellant's home (Exhibit D-4).
- 6) The Appellant was informed that she was no longer eligible to receive cash assistance for [REDACTED] (Exhibit D-4).
- 7) The Appellant had not used the WV WORKS benefits since December 2023 (Exhibit D-4).
- 8) The Appellant and her case worker discussed procedures for removing the WV WORKS benefits from the Appellant's Electronic Benefits Transfer (EBT) card (Exhibit D-4).
- 9) The Respondent sent a Notice of Decision to the Appellant on March 22, 2023, informing her that WV WORKS benefits would stop effective May 2023 (Exhibit D-5).
- 10) The Respondent notified the Appellant on February 7, 2024, that she received \$1,251 more in cash benefits than she was eligible to receive for the period of February 1, 2023, through April 30, 2023. The letter states that a repayment claim would be established (Exhibit D-6).

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 10.5.2.A (Exhibit D-7) states that a client must report all changes in income, assets, household composition, and other circumstances.

West Virginia Income Maintenance Manual Chapter 10.5.2.B (Exhibit D-7) states:

For WV WORKS cases, a client must report all changes in circumstances within 10 days... When a dependent child included in a WV WORKS payment will be absent from the home for a period of 30 consecutive calendar days or more, the parent or other caretaker must notify the Department of Health and Human Resources (DHHR) by the end of the fifth calendar day after the date it becomes clear to the parent/caretaker that the child will be absent for at least 30 days.

West Virginia Income Maintenance Manual Chapter 11.3.2 states

The following actions are taken by the IFM Worker in establishing a claim against the AG.

- Accept all referrals related to potential cash assistance overpayments
- Review the case record
- Obtain third-party verifications to support the allegations
- Identify the month(s) for which the claim is established
- Classify the claim as agency or client error
- Use policy that was in effect at the time of the error to determine the amount of the overpayment
- Notify the AG of the overpayment
- Initiate and monitor collection activity on the claim

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.

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.

### **DISCUSSION**

Policy states that when a client fails to report changes in a timely manner, a repayment claim is established if the change would have decreased benefits. When a 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.

The Respondent's representative contends that the Appellant is required to repay three months of WV WORKS benefits because she did not report in a timely manner that [REDACTED] had left her household.

The Appellant testified that she had not been using the WV WORKS benefits on her EBT card and spoke with her case worker to get the funds removed from the card after [REDACTED] left the household. She had believed that the funds would be removed from the card; however, she contended that an EBT administrator named "Diana" contacted her, informed her that she was entitled to use the benefits, and told her that she needed to get the funds off the card. The Appellant stated that she ultimately paid bills with the funds since she was told that she needed to use them.

The Respondent's records confirm that the Appellant spoke with her worker about how to remove unused WV WORKS benefits from her EBT card. While it is unclear why the benefit removal did not occur, the Appellant ultimately used funds to which she was not entitled. Therefore, the Respondent's proposal to seek repayment of cash assistance benefits is correct.

### **CONCLUSIONS OF LAW**

- 1) Policy states that when a client fails to report a change in a timely manner, a repayment claim is established if the change would have decreased benefits.
- 2) The Appellant failed to report timely that [REDACTED] had left her home in December 2022.
- 3) The Appellant was no longer eligible for WV WORKS benefits after [REDACTED] left the household.
- 4) The Appellant used WV WORKS benefits to which she was not entitled.
- 5) The Respondent's proposal to seek repayment of WV WORKS benefits is correct.

### **DECISION**

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

**ENTERED this 21st day of March 2024.**

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**Pamela L. Hinzman  
State Hearing Officer**