



November 13, 2024

[REDACTED]

RE: [REDACTED] v. OIG/IFM
ACTION NO.: 24-BOR-3492

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Birdena Porter, Investigations and Fraud Management

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

████████████████████

Appellant,

v.

Action Number: 24-BOR-3492

**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 November 6, 2024.

The matter before the Hearing Officer arises from the October 22, 2024, decision by the Respondent to establish a repayment claim of WV WORKS benefits against the Appellant.

At the hearing, the Respondent appeared by Birdena Porter, Investigations and Fraud Management. The Appellant represented herself. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Combined Application and Review Form for Financial, Medical and Supplemental Nutrition Assistance Program dated October 2, 2020
- D-2 Document for Protection of Application Date and Rights and Responsibilities signed September 22, 2021, and Combined Application and Review Form for Financial, Medical and Supplemental Nutrition Assistance Program signed September 27, 2022 and Application for Benefits signed September 26, 2023
- D-3 Individual Eligibility History
- D-4 Case Benefit Summary
- D-5 Foster Care Payment History
- D-6 Notice of Cash Assistance/School Clothing Allowance Overpayment dated October 22, 2024

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 WV WORKS caretaker relative cash assistance for her [REDACTED], on October 2, 2020 (Exhibit D-1).
- 2) Under the section *Other Benefits Received*, the Appellant answered “no” to the question *Is this person in Foster Care?* for [REDACTED] (Exhibit D-1).
- 3) The Appellant answered “yes” to *Is this person in Foster Care?* for her other [REDACTED] [REDACTED] (Exhibit D-1).
- 4) Under the section *Other Income*, the Appellant reported receiving Foster Care payments of \$690 monthly for [REDACTED] (Exhibit D-1).
- 5) The Appellant did not list any income for [REDACTED] (Exhibit D-1).
- 6) Caretaker relative cash assistance benefits were approved for [REDACTED] from October 2, 2020, through September 30, 2021 (Exhibit D-3).
- 7) The Appellant completed an eligibility review for caretaker relative cash assistance benefits on September 22, 2021 (Exhibit D-2).
- 8) Caretaker relative cash assistance benefits were approved for [REDACTED] from October 2021 through September 2022 (Exhibit D-3).
- 9) The Appellant completed an eligibility review for caretaker relative cash assistance benefits on September 2, 2022 (Exhibit D-2).
- 10) Under the section *Other Benefits Received*, the Appellant marked “no” to the question *Is this person in Foster Care?* for [REDACTED] (Exhibit D-2).
- 11) Under the section *Other Income*, the Appellant reported receiving Adoption Assistance of \$2,370 monthly and Foster Care payments of \$790 monthly. Foster Care income for [REDACTED] [REDACTED] was removed. (Exhibit D-2).

- 12) No income was reported for [REDACTED]. (Exhibit D-2).
- 13) Caretaker relative cash assistance benefits were approved for [REDACTED] from October 2022 through September 2023 (Exhibit D-3).
- 14) On an unknown date, the Appellant's [REDACTED] was added to the household and to the caretaker relative cash assistance benefits effective March 2023 (Exhibit D-3).
- 15) The Appellant completed an eligibility review for caretaker relative cash assistance benefits on September 26, 2023 (Exhibit D-2).
- 16) Under the section *Household Information*, the Appellant answered “no” to the question *Is anyone a foster child or foster adult?* (Exhibit D-2).
- 17) Under the section *Other Income and Benefits*, the Appellant reported receiving Social Security, Adoption Assistance and Supplemental Security Income (SSI). (Exhibit D-2).
- 18) No income was reported for [REDACTED] (Exhibit D-2).
- 19) Caretaker relative cash assistance benefits were approved for [REDACTED] from October 2023 through September 2024 (Exhibit D-3).
- 20) The Appellant received Foster Care payments for [REDACTED] from January 2020 through August 2024 of \$600 monthly (Exhibit D-5).
- 21) The Appellant received Foster Care payments for [REDACTED] from January 2020 through August 2024 of \$600 monthly (Exhibit D-5).
- 22) The Appellant received Foster Care payments for [REDACTED] from January 2020 through August 2024 of \$600 monthly (Exhibit D-5).
- 23) The Appellant received Foster Care payments for [REDACTED] from February 2023 through August 2024 of \$790 monthly (Exhibit D-5).
- 24) The Respondent issued a notice of cash assistance overpayment to the Appellant on October 22, 2024, advising that a repayment claim of \$8,759 had been established for cash assistance benefits that were issued from October 2020 through August 2024 (Exhibit D-6).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 3 explains eligibility determination groups for WV WORKS cash assistance:

3.4.1.B Who Must Not Be Included?

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.

- Individuals who are recipients of federal, state, or local foster care maintenance or an adoption assistance payment

West Virginia Income Maintenance Manual Chapter 11 explains repayment procedures:

11.3 Cash Assistance Claims and Repayment Procedures

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.

11.3.3 Identifying the Months for Which Claims Are Established

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.

Failure to Take Prompt Action and Computation Error below are used when the overpayment is not contested in a Fair Hearing. If a Fair Hearing is held, the Hearing Officer's decision is final.

11.3.3.A 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

11.3.3.A.2 Computation Error

The first month of overpayment is the month the incorrect payment was effective.

11.3.3.B Client Errors

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.

11.3.3.C Fraud Claims

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.

West Virginia Income Maintenance Manual Chapter 4 Appendix A lists the maximum WV WORKS cash assistance benefit amount:

Effective 2020

WV WORKS for a one-person assistance group: \$288
WV WORKS for a two-person assistance group: \$331
WV WORKS for a three-person assistance group: \$374
WV WORKS for a four-person assistance group: \$422

Effective 2021 through 2024

WV WORKS for a one-person assistance group: \$417
WV WORKS for a two-person assistance group: \$480
WV WORKS for a three-person assistance group: \$542
WV WORKS for a four-person assistance group: \$612

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.

The Respondent established a repayment claim of \$8,759 in caretaker relative cash assistance benefits that were issued from October 2020 through August 2024 for [REDACTED]. The Respondent determined that [REDACTED] were receiving Foster Care payments while receiving caretaker relative cash assistance benefits and were therefore ineligible. The Respondent contended that [REDACTED] was eligible for cash assistance benefits as he does not receive Foster Care payments.

The Appellant argued that she never received caretaker relative cash assistance benefits for [REDACTED] claiming that the money deposited onto her Electronic Benefit Transfer (EBT) card was cash assistance for [REDACTED] only. The Appellant did not dispute that she received Foster Care payments for [REDACTED]. The Appellant testified that she has had numerous interviews with caseworkers and provided the Department of Human Services (DoHS) with all her financial statements regarding the receipt of Foster Care and Adoption Assistance for the children. The Appellant did not dispute receiving cash assistance benefits of \$612 monthly beginning January 2021, but adamantly denied that [REDACTED] were included in the monthly benefit.

Prior to the October 2, 2020, application, the Appellant had been receiving caretaker relative cash

assistance of \$288, the maximum amount for a one-person assistance group in 2020. The Appellant received \$407 in October 2020, a prorated amount from the date of application for a four-person assistance group. The Appellant received \$422 in November and December 2020, the maximum amount for a four-person assistance group in 2020. The Appellant's cash assistance was increased to \$612, effective January 2021, the maximum amount for a four-person assistance group from 2021 through 2024 (Exhibit D-4).

The Respondent provided documentation from its eligibility system confirming that [REDACTED] were included in the caretaker relative cash assistance benefit from October 2020 through August 2024 and that [REDACTED] was included in the caretaker relative cash assistance benefit from March 2023 through August 2024. No information was provided to determine which months during the proposed repayment period of August 2020 through August 2024 that [REDACTED] was included in the cash assistance benefit (Exhibit D-3).

Although the Appellant contended that she reported her income to various DoHS caseworkers, it is unclear whether this information was reported to her eligibility caseworker or adoption and foster care caseworkers. The Appellant had several opportunities to report on applications and reviews that [REDACTED] were in foster care and to report the Foster Care payments received on their behalf. The Appellant answered "no" to questions regarding foster care for [REDACTED] and did not list the Foster Care income received on the October 2, 2020 application, September 27, 2022 and September 26, 2023 eligibility reviews. The Appellant bears responsibility for the overpayment of caretaker relative cash assistance benefits for her failure to accurately report her household income at application and review.

The Respondent failed to produce its calculations used to determine the \$8,759 repayment claim amount, therefore the accuracy of the repayment claim cannot be determined. By the Respondent's own admission, [REDACTED] was eligible to be included in the caretaker relative cash assistance benefit and it is unclear if the amount he was entitled to was deducted from the total repayment claim. [REDACTED] was included in the cash assistance benefit from March 2023 through August 2024, however, the benefit issued during that time period reflects the maximum benefit amount for a four-person assistance group. The Appellant was issued \$612 from March 2023 through April 2024 and \$542 from June 2024 through August 2024, the maximum benefit amount for a three-person assistance group. While the Respondent provided sufficient documentation to support that [REDACTED] were included in the cash assistance benefit during that time period, there was no information provided to reflect that [REDACTED] was included.

The preponderance of evidence revealed that [REDACTED] were receiving Foster Care payments while simultaneously receiving caretaker relative cash assistance. Policy prohibits the receipt of Foster Care and cash assistance during the same month, therefore, any cash assistance benefits issued on behalf of [REDACTED] were issued in error. Whereas the Appellant was issued more cash assistance benefits than she 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 is ineligible to be included in the WV WORKS cash assistance benefit.
- 3) [REDACTED] received Foster Care payments and caretaker relative cash assistance simultaneously.
- 4) The Appellant must repay caretaker relative cash assistance benefits issued for [REDACTED] [REDACTED] while 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 [REDACTED] [REDACTED] while receiving Foster Care payments. The matter is **remanded** to the Respondent for calculation of the repayment claim amount.

ENTERED this 13th day of November 2024.

Kristi Logan
Certified State Hearing Officer