



January 22, 2025

[REDACTED]

RE: [REDACTED] v. OIG/IFM
ACTION NO.: 24-BOR-3817

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: Steven R. Compton, Esq., Deputy Attorney General

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

██████████
Appellant,

v.

Action Number: 24-BOR-3817

**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 originally set to be convened on January 8, 2025; however, upon a request by both parties, it was rescheduled to January 21, 2025.

The matter before the Hearing Officer arises from the November 26, 2024 decision by the Respondent to establish a repayment claim of WVWORKS/WVEAP (cash assistance) benefits.

At the hearing, the Respondent appeared by and through counsel, Steven R. Compton, Deputy Attorney General. Appearing as a witness for the Respondent was Birdena Porter, Repayment Investigator. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was her mother, ██████████. 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 March 24, 2020
- 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 October 30, 2024
- D-3 Cash Assistance Claim Determination
- D-4 Screen print of Case Benefit Summary from January 31 to November 6, 2024
- D-5 WV WORKS Transitional Benefit Option, signed and dated June 28, 2024

- D-6 Screen print of Employment Assistance Program
- D-7 Copy of pay statement, check dates August 8, August 23, September 8, September 23, 2024; Employment Statement for Home Instead, signed and dated July 18, 2024; Employment Statement for Home Instead loss of employment, signed and dated November 1, 2024
- D-8 (EDA5) Notification of eligibility for West Virginia Employment Assistance Program (WVEAP), dated August 2, 2024
- D-9 WV Income Maintenance Manual (WV IMM), Chapter 18, §18.22 *et. seq.*

Appellant's Exhibits:

- A-1 Emailed statement submitted to Hearing Officer January 12, 2025; Partial photo of a request for verification dated September 13, 2024; Copy of exhibit list for an October 23, 2024 SNAP hearing; Copy of Hearing Summary for October 23, 2024 SNAP hearing; Partial photo of Employment Statement for [REDACTED]; Screen print of emails to [REDACTED] dated July 17 and 24, August 13 and 23, 2024; Pay statements dated July 8, August 8 and 23, September 6 and 23, 2024.

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 was receiving WWORKS benefits in an Assistance Group (AG) of 3, including herself and her two children.
- 2) On June 28, 2024, the Appellant completed a WV Works Transitional Benefits Employment Assistance Payments (WWORKS/WVEAP) Agreement. (Exhibit D-5)
- 3) The June 28, 2024 WWORKS/WVEAP Agreement specifically noted that the Appellant must work a minimum of 85 hours monthly to remain eligible for WWORKS/WVEAP payments. (Exhibit D-5)
- 4) On August 2, 2024, the Respondent issued a notification to the Appellant that her WWORKS/WVEAP benefits were approved to begin August 1, 2024 through January 31, 2025 in the amount of \$542 per month. (Exhibit D-8)
- 5) On September 12, 2024, the Appellant submitted pay statements to the Respondent's worker. (Exhibit A-1)
- 6) On September 13, 2024, the Respondent's worker sent a request for verification of the Appellant's hours and gross income from August 12 to September 10, 2024 for consideration of eligibility and/or deductions for WWORKS/SNAP benefits, due by September 23, 2024. (Exhibit A-1)

- 7) The Appellant submitted pay statements showing total work hours for the month of August of 9.25 hours and 10.50 hours for the month of September, 2024. (Exhibits D-7 and A-1)
- 8) On September 26, 2024, the Respondent's worker determined that the Appellant had not met the work requirement for WVWORKS/WVEAP eligibility and those payments were terminated. (Exhibit D-6)
- 9) The Appellant's overpayment of WVWORKS/WVEAP benefits was forwarded to the Office of Inspector General, Investigations and Fraud Management (IFM) Unit.
- 10) Because the Appellant did not meet the eligibility requirement of working a minimum of 85 hours a month for the WVWORKS/WVEAP benefits, a client error (CE) repayment claim was established for the August, September, and October 2024 benefits, totaling \$1,626. (Exhibit D-3)
- 11) The Appellant signed the Rights and Responsibilities section on her original application dated March 24, 2020 and her October 30, 2024 review, acknowledging understanding that she may be required to repay any benefits paid for which she was not eligible because of unintentional errors or the Department's errors. (Exhibits D-1 and D-2)

APPLICABLE POLICY

WV IMM, Chapter 18, §18.22, Transitional Benefit, in part:

Work-Eligible Individuals may choose between two transitional benefit options any time the WV WORKS case is closed due to employment and the participant has reported employment within ten days of the employment begin date. The closure may be at the participant's request, but the participant must be employed. When the participant accepts employment and the WV WORKS benefit is closed, the Case Manager advises the participant regarding the benefits of each option and the participant chooses the one best suited to the needs of his family. The participant signs the WV WORKS transitional benefit Option form, DFA-WVW-15, to document the decision.

WV IMM, Chapter 18, §18.22.1, Eligibility Requirements For Transitional Benefit Options,

in part: Individuals who meet all of the following requirements may choose a transitional benefit option:

...

- One adult in the family, who lives in the household, meets all of the following requirements:
 - Is employed;
 - For the EAP, this must be full-time employment defined for a one-parent family as 128 hours or more per month or 85 hours for a single parent with a child under six; and defined for a two-parent family as 150 hours or more per month or 236 hours when the family receives federally funded child care. For a two-parent household, the hours required may be met by combining the work hours of both parents.
 - Due to employment, the AG exceeds the program income limit or requested the benefit be closed due to employment;

- Received a monthly WV WORKS benefit, not solely a Diversionary Cash Assistance (DCA) payment, as a Work-Eligible Individual or was in the household as a non-recipient Work-Eligible Individual; and
- Has a dependent child in the home.

WV IMM, Chapter 11, §11.3, Cash Assistance Claims And Repayment Procedures, in part: 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.

WV IMM, Chapter 11, §11.3.2, Procedures for Establishing Cash Assistance Claims: The following actions are taken by the IFM Worker in establishing a claim against the AG. The IFM Worker:

- 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

DISCUSSION

The Appellant was a recipient of WVWORKS benefits. On June 28, 2024, the Appellant was hired to work at [REDACTED]. On the same date, the Appellant entered into an agreement with the Respondent's caseworker to begin receiving WVWORKS/WVEAP benefits, working a minimum of 85 hours a month to meet eligibility for this program. On August 2, 2024, the Respondent notified the Appellant she was approved for the WVWORKS/WVEAP benefits to begin August 1, 2024 through January 31, 2025.

Subsequently, it was discovered that the Appellant had not been working her minimum of 85 hours a month as required under WVWORKS/WVEAP policy for eligibility. The Appellant's WVWORKS/WVEAP payments were terminated. The Appellant's case was forwarded to IFM who determined that because the Appellant did not meet her minimum work hours of 85 hours a month since the start of the WVWORKS/WVEAP payments (August), a repayment claim must be

established for the months of August, September and October 2024. Because the Appellant failed to meet the terms of the WWORKS/WVEAP Agreement, IFM established the claim as a client error.

The Appellant did not dispute the number of hours she worked for the months of August and September 2024. The Appellant contends that she did report the income she received in August via emails to her caseworker, but that she never received a reply. In reviewing the emails submitted into evidence, the Appellant sent emails only noting the amount and day of each August paycheck. The emails did not indicate the hours the Appellant worked or why she did not meet her required monthly work hours for the WWORKS/WVEAP eligibility. The evidence also showed that the Appellant had a total of 9.25 hours for the month of August and 10.5 hours for the month of September. Furthermore, the evidence and testimony demonstrated that the Appellant was provided an opportunity to submit evidence of her work hours and income by September 23, 2024 for WWORKS/SNAP eligibility and/or deductions.

Pursuant to policy, to be eligible for WWORKS/WVEAP benefits, monthly minimum work hours must be met. The Appellant elected to receive WWORKS/WVEAP benefits and entered into an agreement to work the minimum 85 hours per month. She failed to do so. Because the Appellant failed to meet eligibility requirements for the WWORKS/WVEAP benefits, the Appellant was not entitled to receive WWORKS/WVEAP benefits for the months of August, September, and October.

Policy establishes that when an 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.

Based upon review of the evidence and testimony presented, the Respondent showed by a preponderance of evidence that it correctly established that the Appellant was not entitled to WWORKS/WVEAP benefits due to a client error for the months of August, September and October 2024. The Respondent's decision to establish a repayment claim in the amount of \$1,626 is affirmed.

CONCLUSIONS OF LAW

- 1) Policy establishes that a requirement for WWORKS/WVEAP benefit eligibility is to meet minimum work hours.
- 2) The Appellant entered into an agreement to meet the minimum work requirement of 85 hours per month for WWORKS/WVEAP benefit eligibility.
- 3) Because the Appellant failed to meet the minimum work hours she was ineligible for the WWORKS/WVEAP benefits.

- 4) The Appellant was ineligible for WVWORKS/WVEAP benefits for the months of August, September and October 2024, due to client error.
- 5) The Respondent must establish a repayment claim for the WVWORKS/WVEAP benefits of \$1,626.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to establish a client error repayment claim of the WVWORKS/WVEAP cash benefits.

ENTERED this 22nd day of January 2025.



Lori Woodward, Certified State Hearing Officer