



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661**

**Earl Ray Tomblin
Governor**

**Karen L. Bowling
Cabinet Secretary**

October 14, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-3018

Dear Mr. [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 and Human Resources. 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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Christine Allen, Repayment Investigator

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW**

██████████,

Appellant,

v.

Action Number: 15-BOR-3018

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Movant.

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 Department of Health and Human Resources' (DHHR) Common Chapters Manual. This fair hearing was convened on October 13, 2015, on an appeal filed September 11, 2015.

The matter before the Hearing Officer arises from the July 27, 2015 decision by the Movant to establish a repayment claim against the Appellant's receipt of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Movant appeared by Repayment Investigator Christine Allen. The Appellant appeared *pro se*. Both participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- M-1 Form IG-BR-29, Hearing/Grievance Request Notification, dated September 11, 2015
- M-2 Movant's Hearing Summary
- M-3 Letter from Department to Appellant, dated July 27, 2015
- M-4 Form ES-FS-5, Food Stamp (now SNAP) Claim Determination
- M-5 SNAP Application, signed by Appellant on April 4, 2014
- M-6 SNAP Case Recordings, dated July 24 through September 11, 2015
- M-7 Benefit recovery claim establishment screen print (BVCL), dated July 24, 2015
- M-8 SNAP Repayment Agreement, signed by Appellant on July 30, 2015

- M-9 Form DF-25, SNAP Repayment Claim Tracking, repayment period August 1 through August 31, 2015
- M-10 WV Income Maintenance Manual (WV IMM), Chapter 9, §9.1.A.2.g
- M-11 WV IMM, Chapter 20, §20.2.C.1

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 Supplemental Nutrition Assistance Program (SNAP) benefits on April 4, 2014 (Exhibit M-5). On the application form, he indicated he had been convicted of a drug felony in 2008. The Department approved his application for SNAP benefits on May 6, 2015.
- 2) The Appellant received \$1096 in SNAP benefits from April through September, 2014 (Exhibit M-4).
- 3) On July 24, 2015, the Department established a repayment claim (Exhibit M-7) against the Appellant in the amount of \$1096. The Department sent to the Appellant a letter (Exhibit M-3) informing him of the repayment obligation and amount.
- 4) On July 30, 2015, the Appellant signed a Repayment Agreement (Exhibit M-8), agreeing to repay \$50 per month toward the overissuance. In August 2015, he made the first \$50 payment (Exhibit M-9).

APPLICABLE POLICY

The WV Income Maintenance Manual (WV IMM) Chapter 9.1.A.2.g states that an individual who has been convicted of a felony offense which occurred after August 22, 1996, involving possession, use or distribution of a controlled substance as defined by section 802 (6) of the Controlled Substance Act is permanently disqualified from receiving SNAP benefits.

The WV IMM Chapter 20.2 reads, "When an [assistance group] has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or Intentional Program Violation (IPV) claim," and that UPV claims are established when "an error by the Department resulted in the overissuance."

DISCUSSION

The Appellant did not dispute that he was a convicted drug felon, nor did he dispute that he received \$1096 in SNAP benefits from April through September, 2014. He testified that he reported to the worker to whom he submitted his SNAP application on April 4, 2014, that he was a convicted drug felon, but the Department issued the SNAP benefits to him in spite of his reporting this information. He argued that since the error was on the part of a Department worker and not him, he should not have a repayment obligation.

However, policy is clear that if a SNAP recipient receives more SNAP benefits than he or she is entitled, he or she must repay the overissued amount, regardless of whether the error was on the part of the recipient or the Department. Because the Appellant received more SNAP benefits than he was entitled due to a worker error, the Department acted correctly to establish a repayment obligation against him.

CONCLUSION OF LAW

The WV Income Maintenance manual, in Chapter 20.2, requires the establishment of SNAP repayment claims whenever there has been an excess issuance of SNAP benefits. As such, the Department correctly established a SNAP repayment claim against the Appellant for \$1096.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department's decision to establish a SNAP repayment claim totaling \$1096 against the Appellant.

ENTERED this 14th Day of October 2015.

**Stephen M. Baisden
State Hearing Officer**