



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

December 3, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-3395

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: Brian Shreve, Repayment Investigator

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

██████████,

Appellant,

v.

Action Number: 15-BOR-3395

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

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 Department of Health and Human Resources' (DHHR) Common Chapters Manual. This fair hearing was convened on December 2, 2015, on an appeal filed November 2, 2015.

The matter before the Hearing Officer arises from the October 9, 2015 decision by the Respondent to establish a repayment claim against the Appellant's receipt of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by the Department's Representative, Repayment Investigator Brian Shreve. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was his wife ██████████. All participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 SNAP Case Recordings, dated December 3, 2002 through September 18, 2014
- D-2 SNAP Case Recordings, dated September 18, 2014 through February 24, 2015
- D-3 SNAP Case Recordings, dated August 7, 2015 through September 1, 2015
- D-4 Employee Wage Data print-out from WV DHHR Data Exchange
- D-5 Form ES-FS-5, Food Stamp (now SNAP) Claim Determination
- D-6 Food Stamp Allotment Determination print-outs from Appellant's SNAP case record
- D-7 WV Income Maintenance Manual (WV IMM), Chapter 20, §20.2
- D-8 Letter from Department to Appellant, dated October 9, 2015
- D-9 WV IMM, Chapter 10, Appendix A

Appellant's Exhibits

A-1 Collection of hand-written notes from Appellant

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, 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 and his wife obtained custody of their two grandchildren in 2014. On September 18, 2014, the Appellant applied for Medicaid on the grandchildren's behalf. He also applied for caretaker-relative cash assistance and SNAP benefits. The case recordings written at the time of the application (Exhibit D-1) do not indicate any source of income for the Appellant or his wife.
- 2) Case recordings from September 24, 2014 (Exhibit D-2) indicate the Appellant returned to the DHHR office to complete the cash assistance application on that date. The case recordings indicate the Appellant's household was approved for cash assistance in the amount of \$301 per month and SNAP in the amount of \$357 per month. Again, the case recordings did not report any household income.
- 3) Case recordings from August 14, 2015 (Exhibit D-3) indicate the Appellant returned to the DHHR office for a benefit review. The recordings indicate the Appellant reported his wife was working and he received monthly RSDI (Social Security Disability) benefits. The worker who conducted the review recorded that he or she referred the Appellant's case to the Department's representative, a repayment investigator, for a possible SNAP benefit repayment.
- 4) On October 8, 2015, the Department's representative completed a Food Stamp [now SNAP] Claim Determination (Exhibit D-5), wherein he calculated that from September 2014 through August 2015, the Appellant's household received \$6997 in SNAP benefits to which it was not entitled because no income had been entered at the time of the September 2014 application. The Department sent to the Appellant a letter (Exhibit D-8) informing him of the repayment obligation and amount.

APPLICABLE POLICY

The WV Income Maintenance Manual (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."

WV IMM, Chapter 20.2.C reads, "A UPV claim is established when an error by the Department resulted in the overissuance . . ."

DISCUSSION

The Department's representative testified that at the time of the September 2014 SNAP application, the Appellant properly reported and verified his household income to the worker who processed the application, and the verification he provided is included in his case record. The Department's representative stated that he had no explanation as to why the income was not entered into the Appellant's SNAP benefit calculations. He added that this overpayment is an agency error.

The Appellant and his wife argued that since there was no error on their part in applying for SNAP benefits, they should not have to repay them. However, policy is clear that when a SNAP assistance group receives more benefits than it was entitled to receive, a repayment claim must be established even if the error is an unintentional program violation, such as an agency error.

Because the Appellant's household received SNAP benefits to which it was not entitled from September 2014 through August 2015, the Department acted correctly to establish a repayment obligation in the amount of \$6997.

CONCLUSION OF LAW

The WV Income Maintenance manual, in Chapter 20, §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 \$6997.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department's decision to establish a SNAP repayment claim totaling \$6997 against the Appellant.

ENTERED this 3rd Day of December 2015.

Stephen M. Baisden
State Hearing Officer