



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL

Earl Ray Tomblin  
Governor

BOARD OF REVIEW  
9083 Middletown Mall  
White Hall, WV 26554

Karen L. Bowling  
Cabinet Secretary

January 8, 2015



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 14-BOR-3764

Dear Ms. [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,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

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

cc: Rebecca Pancake, RI, WVDHHR

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

██████████,

**Claimant,**

**v.**

**Action Number: 14-BOR-3764**

**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' Common Chapters Manual. This fair hearing was convened on January 6, 2015, on an appeal filed November 20, 2014.

The matter before the Hearing Officer arises from the August 28, 2014 decision by the Respondent to establish a Supplemental Nutrition Assistance Program (SNAP) repayment claim against the Claimant.

At the hearing, the Respondent appeared by Rebecca Pancake, Repayment Investigator. The Claimant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1           Benefit Recovery Referral #5000223695 (entered on 1/21/14)
- D-2           Benefit Recovery Referral #6000223696 (entered on 1/21/14)
- D-3           WV Income Maintenance Manual (WVIMM), Chapter 20.2 (excerpt)
- D-4           Code of Federal Regulations 7 CFR §273.18
- D-5           InRoads SNAP application E-signed by ██████████ on 1/5/13
- D-6           Verification of Agency Error – RAPIDS screen prints
- D-7           Verified income used in SNAP calculations - ██████████ wages were paid weekly
- D-8           Food Stamp Claim Determination, calculations and SNAP Issuance History for claim #5000223695 – for the period of February 2013 through July 2013 (\$1,398)
- D-9           InRoads SNAP application E-signed by ██████████ on 7/29/13
- D-10          Verification of Agency Error – RAPIDS screen prints
- D-11          Verified income - ██████████ wages were paid weekly

- D-12 Food Stamp Claim Determination, calculations and SNAP Issuance History for claim #6000223696 – for the period of August 2013 through January 2014 (\$1,156)
- D-13 Two (2) Notifications of Supplemental Nutrition Assistance Program (SNAP) overpayment dated August 28, 2014 – one for each repayment claim – sent to [REDACTED]
- D-14 Two (2) Notifications of Supplemental Nutrition Assistance Program (SNAP) overpayment dated August 28, 2014 – one for each repayment claim – sent to [REDACTED]

\* SNAP is the current name for the program formerly known as the Food Stamp Program. Some of the policy and forms provided have not been updated to reflect the name change.

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) On or about August 28, 2014, Respondent issued two (2) notifications of SNAP repayment claims (D-13 and D-14) to the Claimant and her husband, [REDACTED]. The claims were identified as “agency errors” that occurred during the period of February 2013 through July 2013 (\$1,398) and August 2013 through January 2014 (\$1,156). Testimony proffered by Respondent’s representative indicated that because the Claimant’s case had closed briefly, and then reopened when the July 2013 review was completed, the data system identifies the overpayment as two (2) separate claims - even though the \$2,554 overpayment occurred without a disruption in SNAP benefits during the period of February 2013 through January 2014.
- 2) The Claimant completed an application in January 2013 (D-5), and again on July 29, 2013 (D-9), and reported that she was paid weekly by her employer. Respondent stipulated that following the Claimant’s SNAP applications/reviews, an agency error was committed and the Claimant’s wages were entered into the data system on both occasions indicating she was paid bi-weekly (D-6 and D-10). Respondent’s representative reported that the error actually occurred before the period included in the proposed repayment claim, however, policy only allows the Respondent to establish a repayment retroactively for the one (1)-year period prior to the date of discovery (This claim was discovered on 1/21/14, Exhibits D-1 and D-2).
- 3) The calculation of the SNAP repayment claim is the difference between the amount of benefits the Claimant actually received and the amount of benefits that would have been received using the Claimant’s correct income amount. Exhibits D-7, D-8, D-11 and D-12 confirm that the Claimant’s Assistance Group (AG) received an overpayment of SNAP benefits in the amount of \$2,554 during the period February 2013 through January 2014.

- 4) The Claimant reported that she is contesting the SNAP repayment because she did not think she should have to repay a claim that was caused by agency error.

### **APPLICABLE POLICY**

The WV Income Maintenance Manual (WVIMM), at §20.2, provides that when an AG 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. The claim is the difference between the entitlement the assistance group received and the entitlement the assistance group should have received.

The WVIMM, at §20.2.C.1, defines two types of UPVs: client error and agency error. UPV claims are established when “An error by the Department resulted in the over issuance.”

Policy found in the WVIMM, §20.2.E provides direction regarding the collection of a SNAP claim and states that collection action is initiated against the AG which received the over issuance. When the AG composition changes, collection is pursued against any and all AG’s which include a liable debtor. This policy goes on to provide a list of individuals who are equally liable (liable debtors) for the total amount of the overpayment. Among those individuals listed are adult or emancipated minors in the AG.

### **DISCUSSION**

The Claimant is appealing Respondent’s establishment of a SNAP repayment claim on the basis that the overpayment was neither her, nor her husband’s fault. There is no dispute of the underlying error, which appears to have been a data entry error committed by the Respondent. However, policy makes no distinction between claims resulting from errors made by the Claimant or the agency - The claim is the difference between the entitlement the assistance group received and the entitlement the assistance group should have received.

### **CONCLUSIONS OF LAW**

Whereas the Claimant’s AG received SNAP benefits in the amount of \$2,554 to which it was not legally entitled, the Respondent is required by state and federal regulations to establish a SNAP repayment claim against the Claimant’s AG for this amount.

**DECISION**

The decision of the Respondent to establish a \$2,554 SNAP repayment claim against the Claimant is **affirmed**.

**ENTERED this \_\_\_\_ Day of January 2015.**

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**Thomas E. Arnett  
State Hearing Officer**