



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

August 18, 2016



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-2179

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: 16-BOR-2179**

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on August 18, 2016, on an appeal filed June 27, 2016.

The matter before the Hearing Officer arises from the June 22, 2016 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*. All participants were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 SNAP Case Recordings, dated April 7, 2015 through March 8, 2016
- D-2 Data Exchange match, New Hire Details, dated October 3, 2014
- D-3 Data Exchange match, Employee Wage Data, dated March 29, 2016
- D-4 Form ES-FS-5, Food Stamp (now SNAP) Claim Determination
- D-5 Two earnings verification letters from Department to Appellant's employer, dated March 30 and May 2, 2016, not returned
- D-6 WV Income Maintenance Manual (WV IMM), Chapter 20, §20.2
- D-7 Letter from Department to Appellant, dated June 22, 2016
- D-8 Letter from Department to Appellant, dated June 27, 2016

### **Appellant's Exhibits**

None

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 applied for SNAP benefits in March 2015. On his application, he reported that he was working and receiving earned income.
- 2) The Department calculated his SNAP amount based on no income received in his SNAP assistance group (AG).
- 3) In February 2016, the Department processed a periodic benefit review submitted by the Appellant and determined he received earned income which was not accounted for in his SNAP eligibility calculation. The Department referred the matter to the Department's representative, a Repayment Investigator.
- 4) On February 11, 2016, the Department's representative completed a Food Stamp (now SNAP) Claim Determination (Exhibit D-4). He calculated a repayment amount of \$2452 in SNAP benefits to which the Appellant was not entitled. He listed the repayment as a "Client Error" claim because the Appellant had not reported his income at application.
- 5) The Appellant contacted the Department's representative and told him he reported his earnings when he applied for SNAP in March 2015. The Department's representative investigated this information and determined the Appellant had reported his income at application. The Department's representative changed the overpayment category to "Agency Error" and reduced the overpayment amount to \$2378.
- 6) Because the Department did not include the Appellant's earnings in his case record, he received an overpayment of SNAP benefits in the amount of \$2378 from March 2015 to March 2016. The Department sent the Appellant a letter (Exhibit D-8) informing him of the repayment obligation and amount.
- 7) The Appellant requested a fair hearing to protest the Department's establishment of this repayment obligation.

### **APPLICABLE POLICY**

The WVWV IMM, Chapter 20, §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, §20.2.C.1 reads, “A UPV claim is established when . . . an error by the Department resulted in the overissuance [or] an unintentional error made by the client resulted in the overissuance . . .”

### **DISCUSSION**

The Appellant requested this fair hearing because he did not believe he should be obligated to repay SNAP benefits issued to him in error when he reported his income promptly and correctly. He testified that he applied for benefits and reported his income as requested, and because of a worker’s error, he is obligated to repay \$2378. He added that this repayment obligation will take money away from his children and from himself, which he needs to remain employed.

The Department’s representative agreed that the Appellant had reported his income correctly at application, but stated he is required by program policy to seek repayment for unintentional program violations regardless of whether the Department or the recipient made the error.

Although the Department did not dispute that the Appellant correctly reported his income when he applied for SNAP in March 2015, policy is clear that a SNAP recipient who receives an overissuance of benefits must repay the amount received in excess, regardless of who made the error.

The Department acted correctly to impose a repayment against the Appellant’s receipt of SNAP benefits.

### **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 excessive issuance of SNAP benefits. As such, the Department correctly established a SNAP repayment claim against the Appellant for \$2378.

### **DECISION**

It is the decision of the State Hearing Officer to UPHOLD the Department’s decision to establish a SNAP repayment claim totaling \$2378 against the Appellant.

**ENTERED this 18<sup>th</sup> Day of August 2016.**

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**Stephen M. Baisden**  
**State Hearing Officer**