



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

October 13, 2016

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2484

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 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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Christine Allen, Mercer County DHHR

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

██████████,

Appellant,

v.

Action Number: 16-BOR-2484

**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 September 29, 2016, on an appeal filed August 12, 2016.

The matter before the Hearing Officer arises from the June 6, 2016 decision by the Respondent to establish a repayment claim of Supplemental Nutrition Assistance Program (SNAP) benefits for the Appellant for October 2015 through December 2015.

At the hearing, the Respondent appeared by Christine Allen, Repayment Investigator. Appearing as a witness for the Respondent was Debrina Lester, Economic Service Worker. The Appellant appeared by her representative, ██████████, Paralegal with ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request Notification
- D-2 Hearing Request and Notice of Appearance received August 8, 2016
- D-3 Department's Summary
- D-4 SNAP Claim Determination Form
- D-5 SNAP Allotment Determination Screen Prints
- D-6 SNAP Claim Calculation Sheets
- D-7 Notices of SNAP Overissuances
- D-8 ██████████ County, ██████████ Department of Social Services Detailed Case Data
- D-9 Screen Print from www.dss.virginia.gov/benefit/responsibility.org
- D-10 Referral/Claim Comments from May 2016 through August 2016
- D-11 Establish Claim Screen Prints

- D-12 West Virginia Income Maintenance Manual §8.6
- D-13 West Virginia Income Maintenance Manual §20.2(C)(1)(a)
- D-14 West Virginia Income Maintenance Manual §20.2(E)

Appellant's Exhibits:

- A-1 Notice of Overissuance dated June 6, 2016
- A-2 Claims for an Individual Screen Print
- A-3 Statement from [REDACTED] dated February 3, 2016
- A-4 Notice of Approval from [REDACTED] County Public Schools Food Service Department dated September 1, 2015, and School Admission Requirements for [REDACTED] County, [REDACTED] Public Schools
- A-5 Request to Be Selected as Payee for Social Security Benefits submitted October 1, 2015
- A-6 Case Comments from October 2015 through August 2016
- A-7 Referral/Claim Comments from May 2016 through June 2016
- A-8 West Virginia Income Maintenance Manual §9.1
- A-9 Screen Print from <https://jupiter.dss.state.va.us/FoodStanpManual/manual/P6CA>, Part 6 Chapter A – The Household Concept
- A-10 Code of Federal Regulations Title 7 §273.1
- A-11 Code of Federal Regulations Title 7 §273.3
- A-12 Rights and Responsibilities Form (blank copy)
- A-13 [REDACTED] Department of Social Services Application for Benefits (blank copy)
- A-14 West Virginia Income Maintenance Manual §4.1
- A-15 Screen Print from <https://jupiter.dss.state.va.us/FoodStanpManual/manual/P3CE>, Part 3 Chapter E – Verification During the Certification Period
- A-16 Code of Federal Regulations Title 7 §273.12
- A-17 Code of Federal Regulations Title 7 §273.2
- A-18 West Virginia Income Maintenance Manual §2.2
- A-19 Screen Print from <https://jupiter.dss.state.va.us/FoodStanpManual/manual/P3CA>, Part 3 Chapter A – Verification
- A-20 Code of Federal Regulations Title 7 §§273.12 and 273.13
- A-21 Screen Print from <https://jupiter.dss.state.va.us/FoodStanpManual/manual/P14CA> Part 14 Chapter A – Changes During the Certification Period, Part 14 Chapter A – Changes During the Certification Period
- A-22 Customer's Change Form Add/Remove Person received September 29, 2015

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 submitted a change reporting form (A-21) to the Department on September 29, 2015, reporting that [REDACTED], a minor child, was residing in her household.
- 2) [REDACTED] was added to the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits effective October 2015.
- 3) The Appellant applied (A-6) for Medicaid benefits for [REDACTED] at the [REDACTED] County district office on October 8, 2015.
- 4) The Appellant reported (A-6) that [REDACTED] was receiving Medicaid in [REDACTED]
- 5) The Appellant's caseworker spoke with a supervisor with the [REDACTED] Department of Social Services (A-6) and reported [REDACTED] residence in West Virginia.
- 6) The Appellant's caseworker was advised that benefits for [REDACTED] would close effective October 31, 2015. Medicaid in West Virginia for [REDACTED] was approved.
- 7) A Front End Fraud Unit (FEFU) Investigator received notification (D-10) from an investigator with [REDACTED] Department of Social Services on March 31, 2016, that [REDACTED] was still an active recipient of SNAP benefits in [REDACTED]
- 8) The FEFU Investigator notified (A-6) the Appellant's caseworker of [REDACTED] receipt of SNAP benefits in [REDACTED] and [REDACTED] was removed from the Appellant's SNAP Assistance Group (AG) effective May 2016.
- 9) Repayment Investigator Christine Allen received verification (D-8) from [REDACTED] County, [REDACTED] Department of Social Services, that [REDACTED] received SNAP benefits in [REDACTED] from July 2015 through May 2016.
- 10) Investigator Allen was advised (D-10) that due to a complaint call regarding [REDACTED] residence in West Virginia, an investigation had been conducted to determine if the person claiming [REDACTED] in their SNAP AG had done so fraudulently.
- 11) Due to reporting requirements in [REDACTED] the individual receiving SNAP benefits for [REDACTED] was not required to report his change of residence until December 2015.
- 12) The Department is pursuing a repayment of SNAP benefits received by the Appellant for October 2015 through December 2015, when she received SNAP benefits for [REDACTED] while he was a recipient in [REDACTED]
- 13) The Appellant contested the establishment of the repayment claim, as she purports that [REDACTED] has resided in her household since May 2015.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §8.2(A) states that when an individual, who is receiving SNAP benefits in another state, establishes residence in West Virginia and applies for benefits, the Worker must determine when SNAP benefits in the other state were stopped. The individual is eligible in West Virginia for the month following the month he last received benefits in the former state of residence, if otherwise eligible.

West Virginia Income Maintenance Manual §8.6 states that an individual may not receive SNAP benefits concurrently in more than one county in West Virginia or more than one state.

West Virginia Income Maintenance Manual §9.1(A)(1)(b)(2) states that Children under age 18 who live with and are under the parental control of an adult AG member who is not a parent, must be in the same AG as the member who exercises parental control.

West Virginia Income Maintenance Manual §9.1(A)(2)(m) states that individuals may only receive SNAP benefits from one state in any month. Therefore, individuals who have already received or will receive SNAP benefits in another state are ineligible to be included in a SNAP AG in WV for that same month.

West Virginia Income Maintenance Manual §2.2(B) states that all SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination. SNAP AGs are subject to Limited Reporting requirements and the reporting requirements in this Section apply to recipient AGs only. The reporting requirements for SNAP recipients are only for SNAP benefits and do not affect the reporting requirements of any other program of assistance that the AG also receives. Regardless of the SNAP reporting requirement, all changes reported directly by an AG member, the AG's authorized representative and/or authorized EBT cardholder, or from a source that is listed as verified upon receipt below must be acted on, even if the AG is not required to report the information.

West Virginia Income Maintenance Manual §2.2(B)(2)(a) action must be taken for all AGs when information is received from a source that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the primary source of the information. Sources considered verified include IFM's (Investigations and Fraud Management) findings of investigation and notification of application for benefits in another state.

West Virginia Income Maintenance Manual §20.2 states 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 SNAP entitlement of the AG and the SNAP allotment the AG was entitled to receive.

West Virginia Income Maintenance Manual §20.2(C)(1) states that there are two (2) types of UPVs, client errors and agency errors. A UPV claim is established when one of the following

occurs: an error by the Department resulted in the overissuance or an unintentional error was made by the client resulted in the overissuance.

████████ Department of Social Services Policy Manual Part 14 Chapter A states that when changes occur within the certification period that affects the household's eligibility or the amount of the benefit allotment, the agency must act to adjust the household's benefit level. The responsibility for changes lies with both the recipient household and the local department of social services. The household must report certain changes in income and household status; the local department of social services must act to make adjustments in entitlement and benefit level based on reported changes and for changes the agency initiates.

████████ Department of Social Services Policy Manual Part 14 Chapter A(1)(a) states that certified households must report when the total income exceeds the gross income limit based on household size at the time of certification, the Interim Report evaluation, or a change reported during the certification period. The household may report a change on the Change Report form, by telephone, by personal contact, by mail, or electronically. The household may also report a change of its circumstances with the filing of the Interim Report. A household member, an authorized representative, **or any person having knowledge of the household's circumstances may report the change to any staff member of the local department of social services** (emphasis added).

████████ Department of Social Services Policy Manual Part 14 Chapter A(2) states the SNAP case must reflect the following changes:

- changes reported by the household; If the household reports an address change, the agency must inquire about shelter costs that result from the move. If the household fails to provide new shelter costs, the agency must remove existing shelter costs from the SNAP calculations.
- **changes put into ADAPT to meet reporting or policy requirements of another program;**
- changes to prevent duplicate participation; and
- changes that are considered verified upon receipt, such as information about the removal of a child from the home by a foster care worker or information from a drug treatment center that says a client moved.

DISCUSSION

The Department is pursuing a repayment of SNAP benefits issued to the Appellant from October 2015 through December 2015, during a period for which a member of the Appellant's SNAP AG was receiving SNAP in ██████████ Pursuant to policy, an individual cannot receive SNAP benefits in more than one state concurrently.

The Appellant contended that ██████████ had been residing with her since May 2015, and as such was eligible to receive SNAP benefits in her AG.

The Department did not dispute that [REDACTED] was a member of the Appellant's household when he was added to her SNAP AG in October 2015; however, the Department established the repayment claim against the Appellant due to the duplicate issuance of benefits in [REDACTED] and West Virginia.

Pursuit to policy, [REDACTED] could not be a separate SNAP AG from the Appellant as a minor child under the parental control of the Appellant. In reporting [REDACTED] as an addition to her household, the Department was required to act on this change.

The Department called the [REDACTED] Department of Social Services to notify the agency of [REDACTED] residency in West Virginia. While it was documented that benefits for [REDACTED] would be terminated, SNAP benefits remained open.

Pursuant to [REDACTED] SNAP policy, all changes reported on behalf of the household during the certification period that would affect the household's eligibility or benefit level must be acted upon. The Department notified [REDACTED] of [REDACTED] residency in West Virginia, and [REDACTED] was required to make the appropriate changes to avoid a duplication of benefits.

While it is unknown if the Department reported [REDACTED] residency in West Virginia specifically for SNAP benefits or Medicaid, [REDACTED] was required to make changes to the case receiving SNAP on behalf of [REDACTED] when making changes to his Medicaid case.

Based on the preponderance of evidence and a review of policy, the Appellant was eligible to receive SNAP benefits for [REDACTED], and the duplicate issuance was not the fault of the Appellant or West Virginia.

CONCLUSIONS OF LAW

- 1) Pursuant to West Virginia Income Maintenance Manual, the SNAP Assistance Group must include any individuals under age eighteen (18) residing in the same household as the adult who exercises parental control.
- 2) [REDACTED] was under the age of 18 when he moved into the Appellant's household and was under her parental control.
- 3) Pursuant to the [REDACTED] Department of Social Services Policy Manual, all changes reported on behalf of the household during the certification period that would affect the household's eligibility or benefit level must be acted upon.
- 4) The Respondent reported to the [REDACTED] Department of Social Services that [REDACTED] was a resident of West Virginia for the sole purpose of terminating his benefits in that state.
- 5) Virginia failed to take appropriate action on the reported change.
- 6) The Appellant is not responsible for a repayment of SNAP benefits issued on behalf of [REDACTED] during October 2015 through May 2015.

DECISION

It is the decision of the State Hearing Officer to **reverse** the establishment of a repayment claim of Supplemental Nutrition Assistance Program benefits against the Appellant.

ENTERED this 13th day of October 2016

Kristi Logan
State Hearing Officer