



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 17, 2016

[REDACTED]  
[REDACTED]  
[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-2585

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,

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-2585**

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

The matter before the Hearing Officer arises from the August 26, 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 Bureau of Child Support Enforcement (BCSE) Case Recordings, dated May 31, 2016
- D-2 Verification of school attendance from ██████████, dated March 23, 2016
- D-3 SNAP Case Recordings, dated May 17 through July 8, 2016
- D-4 SNAP Case Recordings, dated March 17 through May 5, 2016, and SNAP Case Letter Issuance History
- D-5 SNAP Six-Month Contact (Periodic Reporting) Form, dated February 22, 2016
- D-6 Form ES-FS-5, Food Stamp (now SNAP) Claim Determination
- D-7 WV Income Maintenance Manual (WV IMM), Chapter 8, §8.2.A
- D-8 WV IMM, Chapter 20, §20.2

D-9 Letter from Department to Appellant, dated August 26, 2016

D-10 Print-out from Appellant's computerized case record, listing a SNAP repayment claim in the amount of \$422

### **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) In May 2016, the Appellant contacted the [REDACTED] County office of the WV Bureau of Child Support Enforcement (BCSE) to inform the BCSE that one of the children for whom she received SNAP benefits was living and attending school in [REDACTED] (Exhibits D-1 and D-2).
- 2) On June 14, 2016, a worker for the WV DHHR, [REDACTED] County office, entered a case recording (Exhibit D-3) to the effect that the WV BCSE informed her the Appellant's child was living in [REDACTED].
- 3) The Department's worker noted on June 28, 2016 (Exhibit D-3), that the Appellant's child had been in [REDACTED] since at least March 2016 and the Appellant had not verified the child's absence. The worker sent a repayment referral to the WV DHHR, Investigations and Fraud Management unit.
- 4) On February 22, 2016, the Department sent to the Appellant a six-month contact or Periodic Recording Form (Exhibit D-5). The Appellant returned this form to the Department on March 8, 2016, and indicated on it that the child in question no longer lived in her household.
- 5) On August 25, 2016, the Department's representative completed a Food Stamp (now SNAP) Claim Determination (Exhibit D-6). He calculated a repayment amount of \$422 in SNAP benefits to which the Appellant was not entitled. He listed the repayment as a "Client Error" claim.
- 6) The Department's representative determined that the Appellant had informed the Department one of her children had moved out of her home on March 8, 2016. He changed the repayment to an "Agency Error" claim.
- 7) The Department sent the Appellant a letter (Exhibit D-9) informing her of the repayment obligation and amount.
- 8) The Appellant requested a fair hearing to protest the Department's establishment of this repayment obligation.

### **APPLICABLE POLICY**

The WV Income Maintenance Manual (WV IMM), Chapter 8, §8.2.A.3, reads, “Regardless of the reason for the absence, any person expected to be absent from the home for a full calendar month or more is not eligible to be included in the [SNAP assistance group].”

The WV 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 she did not believe she should be obligated to repay SNAP benefits issued to her in error when she reported her child had moved to [REDACTED] promptly and correctly. She testified that she did not think she should be obligated to repay SNAP benefits she received erroneously when the error came from someone at the WV DHHR who did not do his or her job properly. She added that this repayment obligation will take money away from her family.

The Department’s representative agreed the Appellant had promptly and correctly reported the fact that one of her children had moved out of her home, 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, pursuant to IMM Chapter 20, §20.2.

Although the Department did not dispute that the Appellant correctly reported that one of her children moved out of the home in March 2016, 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 \$422.

## **DECISION**

It is the decision of the State Hearing Officer to UPHOLD the Department's decision to establish a SNAP repayment claim totaling \$422 against the Appellant.

**ENTERED this 17<sup>th</sup> Day of October 2016.**

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