



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

December 9, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-BOR-2956

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Brett Allman, Department Representative

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

██████████,

Appellant,

v.

Action Number: 16-BOR-2956

**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 November 22, 2016, on an appeal filed October 31, 2016.

The matter before the Hearing Officer arises from the October 11, 2016 decision by the Respondent to establish a Supplemental Nutrition Assistance Program (SNAP) repayment claim against the Appellant.

At the hearing, the Respondent appeared by Brett Allman, Repayment Investigator. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- | | |
|-----|--|
| D-1 | Hearing request form |
| D-2 | Notice of decision, dated October 11, 2016 |
| D-3 | Case summary |
| D-4 | West Virginia Income Maintenance Manual, Chapter 9.1 |
| D-5 | SNAP review documents, signed May 23, 2014 |

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 October 11, 2016, the Respondent notified the Appellant that she received more SNAP benefits than she was entitled to receive during the 15-month period from March 2015 to May 2016, in the amount of \$2,910. (Exhibit D-3)
- 2) The basis for the repayment claim was unearned income, and the repayment was classified as a “client error” claim. (Exhibit D-3)
- 3) The Respondent was the source of the unearned income that caused the overissuance.
- 4) The Respondent maintains a data exchange to share information regarding the exact unearned income source that caused the overissuance.

APPLICABLE POLICY

The WV Income Maintenance Manual (WVIMM), at §20.2, reads “When an AG [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. The claim is the difference between the SNAP entitlement of the AG and the SNAP allotment the AG was entitled to receive.”

At §20.2.G, policy indicates the Hearing Officer “rules on the type and amount of the claim.”

At §20.2.C.1, policy defines two types of UPVs: client error and agency error. UPV claims are established when “An error by the Department resulted in the overissuance.” UPV agency error claims are “only established retroactively for the one-year period preceding the date of discovery.”

DISCUSSION

The Appellant is contesting the Respondent’s establishment of a SNAP repayment claim. The Respondent must show by preponderance of the evidence that it was correct to establish a repayment claim – both by type and dollar amount.

The Respondent classified the SNAP repayment claim as a “client error” claim in the amount of \$2,910. Both the type and dollar amount of the claim are incorrect and the decision to establish the claim cannot be affirmed.

The basis of this claim is incorrect unearned income, and was clearly the error of the Respondent. Policy allows for the establishment of repayment claims even in instances caused by Departmental error, but limits the time frame for such claims to a twelve-month period preceding the date of discovery. Because the claim was written for a fifteen-month period, neither the type nor the claim amount can be affirmed.

CONCLUSION OF LAW

Because the Appellant received excessive SNAP benefits due to agency error, the Respondent may neither establish a “client error” SNAP repayment claim against the Appellant nor include months prior to twelve months from the date of discovery in the repayment period.

DECISION

The decision of the Respondent to establish a \$2,910 “client error” SNAP repayment claim against the Respondent is **reversed**. Any subsequent claim determination must be noticed separately and is subject to appeal.

ENTERED this ____ Day of December 2016.

Todd Thornton
State Hearing Officer