



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

December 22, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v WV DHHR
BOR ACTION NO.: 16-BOR-3048

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,

Natasha Jemerison
State Hearing Officer
Member, State Board of Review

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

cc: Christina Saunders, Repayment Investigator

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

██████████,

Appellant,

v.

Action No: 16-BOR-3048

**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 convened on December 20, 2016, on an appeal filed November 18, 2016.

The matter before the Hearing Officer arises from the November 7, 2016 decision by the Respondent to apply a Supplemental Nutrition Assistance Program (SNAP) auxiliary in the amount of \$269.00 to the Appellant's open SNAP repayment claim.

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

Department's Exhibits:

- D-1 Notice of Decision, dated November 7, 2016
- D-2 Case Comments computer screen prints, dated October 27, 2016 through November 14, 2016
- D-3 Claim Recoupment History computer screen print, dated March 2016 through November 2016
- D-4 West Virginia Income Maintenance Manual Policy §20.2

Appellant's Exhibits:

None

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 is a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) The Appellant has an open SNAP repayment claim established against her. (D-3)
- 3) A portion of the Appellant's monthly SNAP allotment has been applied to her SNAP repayment claim since at least March 2016. (D-3)
- 4) On October 31, 2016, the Department received verification of the Appellant's decrease in employment hours from 30-40 hours a week to 20 hours a week at \$10.15 per hour. (D-2)
- 5) The decrease in the Appellant's earned income made her eligible for an increase in SNAP benefits effective November 2016. (D-2)
- 6) Because it was too late to increase the automated SNAP issuance amount for November through the Department's data system, the Department issued an Auxiliary in the amount of \$269.00 on November 4, 2016, to supplement the Appellant's SNAP benefits. (D-2)
- 7) The total auxiliary amount of \$269.00 was offset to the Appellant's SNAP claim and not issued to the Appellant. (D-2 and D-3)
- 8) Under some circumstances, policy allows the Department to offset lost benefits owed to the SNAP Assistance Group (AG). (D-4)

APPLICABLE POLICY

West Virginia Income Maintenance Manual §20.2 indicates a claim, whether from an Unintentional Program Violation (UPV) or an Intentional Program Violation (IPV), must be collected by offsetting when lost benefits are owed to the Assistance Group (AG), but have not yet been restored. The worker determines the amount of the corrective benefits due to the household and initiates issuance. The auxiliary code used by the worker causes RAPIDS to search for outstanding SNAP claims and offset the claim, if appropriate.

West Virginia Income Maintenance Manual §2.2 explains the Department should handle an increase in benefits due to the addition of an AG member or a decrease in income of \$50.00 or more as follows:

The change must be effective no later than the month following the month in which the change is reported. When the change is reported after the data system deadline, supplemental benefits must be issued and received by the tenth (10th) of the following month or by the AG's usual issuance cycle in that month, whichever is later.

The supplemental benefits are issued based upon the date the information is reported, regardless of whether or not the report is timely. Supplemental benefits issued in this situation are not considered restored benefits and, therefore, not used to offset a repayment.

DISCUSSION

The Appellant requested a fair hearing due to the Department's decision to offset an auxiliary in the amount of \$269.00 issued to the Appellant and apply it to the Appellant's open SNAP repayment claim. The Appellant felt the full amount of the auxiliary going towards her repayment was unfair, because she had been making monthly payments on her claim through SNAP recoupments.

Although it was not indicated on the November 7, 2016 notice, the Appellant and the Department's representative both agreed the Appellant was issued an auxiliary due to the Appellant's decrease in earned income. On October 31, 2016, the Department received paystubs from the Appellant which verified her hours and income from her employment had decreased. The Appellant testified that her employment hours decreased from 30-40 hours per week at \$10.15 per hour to 20 hours per week at \$10.15 per hour. The decrease in income made the Appellant eligible for an increase in SNAP benefits. According to policy, the change in the SNAP amount had to be effective no later than the month following the month in which the change was reported. Since the Appellant reported the change on October 31, 2016, the increase in SNAP benefits was effective November 2016.

The Department's representative, Ms. Saunders, testified that an auxiliary in the amount of \$269.00 was issued to the Appellant on November 4, 2016, to supplement the amount of SNAP benefits the Appellant was eligible to receive. She stated the full amount of the auxiliary was offset to the Appellant's SNAP repayment claim. A 10% recoupment from the Appellant's SNAP allotment was also applied to the Appellant's SNAP repayment claim in November 2016.

Although policy allows auxiliaries issued to be offset in some situations, it is the responsibility of the Department to determine when the offset is appropriate. The Appellant's decrease in employment hours from 30-40 hours per week to 20 hours per week clearly proved she had a decrease in income of \$50.00 or more. According to policy, supplemental benefits issued in this situation are not considered restored benefits and, therefore, not used to offset a repayment. The Department was incorrect in its determination that the Appellant's auxiliary should be offset.

CONCLUSION OF LAW

Policy requires supplemental benefits to be issued when a decrease in income of \$50.00 or more is reported. Benefits issued in this situation are not considered restored benefits and are not used to offset a repayment.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Department's decision to offset the Appellant's SNAP auxiliary of \$269.00.

ENTERED this 22nd day of December 2016.

Natasha Jemerison
State Hearing Officer