



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

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

February 27, 2017

[REDACTED]

RE: [REDACTED] v WV DHHR
BOR ACTION NO.: 17-BOR-1114

Dear Ms. [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: 17-BOR-1114

**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 February 22, 2017, on an appeal filed January 17, 2017.

The matter before the Hearing Officer arises from the March 7, 2014 decision by the Respondent to include the Appellant's son on the Supplemental Nutrition Assistance Program (SNAP) claim as a liable debtor.

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 Case Household Information computer screen print, dated June 24, 2014
- D-2 SNAP Issuance History computer screen prints, dated June 25, 2007 through February 4, 2017
- D-3 EBT Transaction History computer screen print, dated March 2, 2014 through April 5, 2014
- D-4 Case Comments computer screen prints, dated January 28, 2014 through March 6, 2014
- D-5 Notification of Intent to Disqualify, dated August 29, 2012
- D-6 Administrative Disqualification Hearing scheduling order, dated January 28, 2014
- D-7 Administrative Disqualification Hearing Decision, dated March 6, 2014
- D-8 Notice of Intentional Program Violation, dated March 7, 2014
- D-9 Notices of Decision, dated March 7, 2014
- D-10 West Virginia Income Maintenance Manual Policy §20.2

D-11 Code of Federal Regulations Section 273.16

D-12 Code of Federal Regulations Section 273.18

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 was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) On March 7, 2014, the Appellant was notified that she received more SNAP benefits than she was entitled to receive from October 1, 2008 through February 29, 2012, in the amount of \$23,917. (D-9)
- 3) The Appellant's son was included as a liable debtor on the SNAP repayment claims.
- 4) The Appellant's son turned 18 years old on June 28, 2011.
- 5) The Department's representative excluded the Appellant's son as a liable debtor from part of the SNAP repayment time periods because he was younger than 18 years old.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §20.2 reads when an assistance group (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 explains the following persons are equally liable for the total amount of the overpayment and are liable debtors:

- Adult or emancipated minors in the AG
- Disqualified individuals who would otherwise be required to be included
- An unreported adult who would have been required to be in the AG had he been reported
- Sponsors of alien AGs when the sponsor is responsible for the overpayment

- An authorized representative of an AG if he is responsible for the overpayment

West Virginia Income Maintenance Manual §6.3 indicates a client must receive advance notice in situations involving adverse actions. The advance notice requirement is that notification be mailed to the client at least 13 days prior to the first day of the month in which benefits are affected.

DISCUSSION

The Appellant requested a fair hearing due to the Department's decision to establish a SNAP repayment claim for the time period of October 1, 2008 through February 29, 2012, in the amount of \$23,917, and include her son as a liable debtor. The Appellant requested that her son be removed as a liable debtor from the total repayment amount.

The West Virginia Income Maintenance Manual explains that when an assistance group (AG) has been issued more SNAP than it was entitled, corrective action must be taken by establishing a repayment claim. All adult members of the SNAP AG are equally liable for the repayment amount.

The Appellant stated that while she did not agree with the SNAP repayment reason or the claim amount, she only requested that her son be removed as a liable debtor. The Department's representative, Christina Saunders, explained that because the Appellant's son was not an adult during the full overpayment period, he was removed as a liable debtor for a portion of the overpayment period. Ms. Saunders stated that the Appellant's son must be liable for the claim period and amount that occurred after he turned 18, as required by policy.

Both the Appellant and Ms. Saunders agreed the Appellant's son turned 18 on June 28, 2011. Once the Appellant's son turned 18, he was considered an adult and liable for the SNAP repayment amount. Because policy requires that the Department give advance notice of adverse actions taken on the Appellant's case, the Appellant's son should not be added as a liable debtor until August 1, 2011.

CONCLUSIONS OF LAW

- 1) Per policy, when an AG receives more SNAP benefits than it is entitled, a repayment claim is established.
- 2) The Appellant's AG received more SNAP benefits than they were entitled to receive October 2008 through February 2012.
- 3) Policy requires all adult AG members to be considered liable for the repayment amount.
- 4) Once the Appellant's son turned 18, he became a liable debtor and equally responsible for the SNAP over-issuance from August 2011 through February 2012.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's decision to include the Appellant's son a liable debtor in the SNAP overpayment period that occurred after he turned 18. He should be included as a liable debtor effective August 1, 2011.

ENTERED this 27th day of February 2017.

Natasha Jemerison
State Hearing Officer