



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

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

March 31, 2017

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-1182

Dear Mr. [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: Christina Saunders, Department Representative

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

[REDACTED]

Appellant,

v.

Action Number: 17-BOR-1182

**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 [REDACTED]. 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 March 14, 2017, on an appeal filed January 30, 2017.

The matter before the Hearing Officer arises from the January 25, 2017 decision by the Respondent to establish a SNAP repayment claim against the Appellant.

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 Benefit recovery referral and claim determination documents
- D-2 SNAP review documents, signed by the Appellant on July 26, 2016
- D-3 Medicaid review documents, signed by the Appellant on April 24, 2016
- D-4 West Virginia Income Maintenance Manual (WV IMM), Chapter 9.1 (excerpt)
- D-5 WVIMM, Chapter 2.1 (excerpt)
- D-6 Screen print of prisoner match information regarding the Appellant from the Respondent's data system

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 SNAP benefits during the period of September 2015 through August 2016.
- 2) The Appellant reported there were no members of his household that had been "convicted of a drug felony for possession, use, or distribution of a controlled substance after 8/22/1996" on a SNAP review document he signed on July 26, 2016. (Exhibit D-2)
- 3) The Appellant had been convicted of such a drug felony, making him ineligible for SNAP benefits.
- 4) The Respondent established a \$2,172 "client error" SNAP repayment claim for the period from September 2015 through August 2016, based on his total ineligibility for the SNAP benefits he received during that period of time. (Exhibit D-1)

APPLICABLE POLICY

The WV Income Maintenance Manual (WVIMM), at §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. 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.C.1, the WVIMM policy for SNAP claims indicates that UPV claims are established both when "an unintentional error made by the client resulted in the overissuance" and when "an error by the Department resulted in the overissuance."

DISCUSSION

The Respondent established a \$2,172 SNAP claim against the Appellant. The Appellant is contesting the Respondent's decision to establish this claim. The Respondent must show, by a preponderance of the evidence that its decision was correct.

There was no specific dispute from the Appellant with regard to the time period or calculation of the claim. The Appellant did not dispute the fact he was convicted of a drug felony, which renders him permanently ineligible for SNAP benefits. The Appellant testified that he reported this felony to the Department worker and the Department worker failed to take correct action with that information. If correct, this would not affect the establishment of this SNAP repayment claim or the dollar amount of the claim. The only change would be to the classification of the claim from a “client error” claim to an “agency error” claim. However, the evidence in this case does not support the Appellant’s testimony. The Appellant withheld this information from the Department by signing a SNAP review document that explicitly asked him to list any household members convicted of this particular type of felony. Because the SNAP overissuance could have been prevented from the outset if not for “an unintentional error by the client,” it is correctly classified as a “client error” SNAP repayment claim.

The Respondent has met its burden in showing that it correctly established a \$2,172 “client error” SNAP repayment claim against the Appellant.

CONCLUSION OF LAW

Because the Appellant received excessive SNAP benefits in the amount of \$2,172 due to his failure to report a prior felony making him ineligible for SNAP, the Respondent must establish a client error SNAP repayment claim against the Appellant for this amount.

DECISION

The decision of the Respondent to establish a \$2,172 SNAP repayment claim against the Respondent is **upheld**.

ENTERED this ____ Day of March 2017.

Todd Thornton
State Hearing Officer