



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

June 29, 2017

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-1575

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Elizabeth Mullins, Department Representative

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

██████████,

Appellant,

v.

Action Number: 17-BOR-1575

**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 May 11, 2017, on an appeal filed March 30, 2017.

The matter before the Hearing Officer arises from the March 24, 2017 decision by the Respondent to establish a SNAP repayment claim against the Appellant.

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

Department's Exhibits:

- D-4* Benefit recovery referral
- D-5 SNAP claim determination form and supporting documentation
- D-6 Notice of decision, dated March 30, 2016
- D-7 Work programs referral, dated September 1, 2016
- D-8 Screen prints regarding the Appellant's SNAP case: Comments from the SNAP Employment & Training worker; Client summary screen; SNAP Employment & Training Notification form, dated September 26, 2016
- D-9 Notice of decision, dated March 24, 2017

*Exhibits D-1, D-2 and D-3 were duplicates of the documents in the initial fair hearing request and referral, and were not entered.

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 Respondent issued the Appellant SNAP benefits in the amount of \$388 for the months of November 2016 and December 2016 in error. (Exhibit D-5)
- 2) The basis of this error was the failure of the Respondent to act on information in a timely manner. (Exhibit D-8)
- 3) The Respondent received information on September 26, 2016 (Exhibit D-8, page 9 of 9), which should have resulted in closure of the Appellant's SNAP benefits prior to a November 2016 issuance.
- 4) The Respondent acted on this information on December 14, 2016 (Exhibit D-5, page 8 of 9), resulting in the Appellant receiving November and December 2016 SNAP benefits after case closure should have occurred.
- 5) On March 24, 2017, the Respondent notified the Appellant of the establishment of a \$388 SNAP overissuance claim, classified as "client error." (Exhibit D-9)

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."

At §20.2.C.1.a, policy details two categories of "agency error" claims – those based on failure to take prompt action (§20.2.C.1.a (1)) and those based on computation error (§20.2.C.1.a (2)).

This is distinguished from §20.2.C.1.b, where policy describes “client error” claims as “when the client fails to provide accurate or complete information.”

DISCUSSION

The Respondent established a \$388 SNAP “client error” 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.

The Appellant was a SNAP recipient expected to cooperate with employment and training activities. Upon notification from the SNAP Employment & Training worker that the Appellant did not cooperate as required, the SNAP caseworker should have closed the Appellant’s benefits in a timely manner. Because this did not happen, the Appellant received an overissuance of SNAP benefits. The dollar amount and claim period established by the Respondent is clearly correct.

This claim is also clearly an “agency error” claim, because the overissuance stems from a failure on the part of the Respondent to take prompt action. During the hearing, the representative for the Respondent offered to change the classification of this claim from “client error” to “agency error.” This case is therefore remanded to the Respondent to correct the classification of the claim. The dollar amount and claim period are correct, and do not require modification.

CONCLUSION OF LAW

Because the Appellant received excessive SNAP benefits in the amount of \$388 due to the Respondent’s failure to act on information in a timely manner, the Respondent must establish an “agency error” SNAP repayment claim against the Appellant for this amount.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to establish a \$388 SNAP overissuance claim. This claim was established as a “client error” claim and the matter is **remanded** to the Respondent to reclassify the claim as an “agency error.” There is no modification to the claim period or dollar amount required.

ENTERED this ____ Day of June 2017.

Todd Thornton
State Hearing Officer