

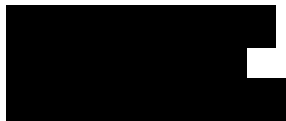


State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

June 5, 2017



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 17-BOR-1609

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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

cc: Wanda Morgan, WVDHHR

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

████████████████████,

**Appellant,**

**v.**

**Action Number: 17-BOR-1609**

**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 June 1, 2017, on an appeal filed April 6, 2017.

The matter before the Hearing Officer arises from the March 29, 2017 decision by the Respondent to seek repayment of Supplemental Nutrition Assistance Program (SNAP) benefits.

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

**Department's Exhibits:**

- D-1 Application dated March 3, 2015
- D-2 Application dated December 18, 2015
- D-3 Case Comments dated January 8, 2016
- D-4 West Virginia Income Maintenance Manual Chapter 9.1
- D-5 Benefit Recovery Referral, Food Stamp Claim Determinations, SNAP Claim Calculation Sheets, SNAP Budget information, notices informing Appellant of SNAP repayment dated March 29, 2017
- D-6 Fair Hearing Request Form and Hearing Request Information
- D-7 SNAP Transaction History
- D-8 Case Comments

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 previous recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) On March 29, 2017, the Respondent sent the Appellant Notices of Decision (D-5), informing him that he had received overpayments of SNAP benefits for the periods of February-July 2014, March-April 2015, and January-February 2016.
- 3) The Respondent contended that – as per policy - the Appellant was ineligible for SNAP benefits due to a drug felony conviction, which he had reported to the Respondent upon application (see Exhibits D-1 and D-2).
- 4) The Respondent indicated that the Agency error resulted in a \$1,411 overpayment of SNAP benefits for the time periods in question (see D-5).
- 5) The Appellant did not dispute the drug felony conviction, but contended he should not have to repay the SNAP benefits because he reported the information at the time of application.

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 9.1.A.2.g (D-4) provides information about SNAP eligibility determination groups and states that individuals convicted of a felony offense which occurred on or after August 23, 1996, which involved possession, use or distribution of a controlled substance as defined by section 802(6) of the Controlled Substance Act are permanently excluded from participation in the SNAP.

West Virginia Income Maintenance Manual Chapter 20.2 states that 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 entitlement the Assistance Group received and the entitlement the Assistance Group should have received. There are two types of Unintentional Program Violations- client errors and Agency errors. A UPV is established when either an error by the Department resulted in the over issuance, or an unintentional error made by the client resulted in the over issuance.

### **DISCUSSION**

Policy states that 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 entitlement the Assistance Group received and the entitlement the Assistance Group should have received. There are two types of Unintentional Program Violations- client errors and Agency errors. A UPV can be established when an error by the Department resulted in the over issuance.

The Appellant clearly reported his drug felony conviction to the Respondent, and the Respondent approved his SNAP benefits in error. While the overpayment was not caused by the Appellant's actions, policy requires the establishment of repayment claims for SNAP benefits issued as the result of an Agency error. Therefore, the Respondent acted correctly in seeking repayment of the Appellant's SNAP benefits.

### **CONCLUSION OF LAW**

The Respondent acted correctly in seeking repayment of SNAP benefits based on an Unintentional Program Violation- Agency error.

### **DECISION**

It is the decision of the State Hearing Officer to UPHOLD the Respondent's action to seek repayment of SNAP benefits.

**ENTERED this 5th Day of June 2017.**

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**Pamela L. Hinzman**  
**State Hearing Officer**