

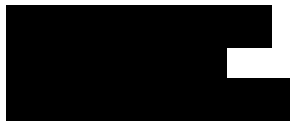


State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

June 16, 2017



RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-1822

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,

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

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

cc: Robin Goode, WVDHHR

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

████████████████████,

Appellant,

v.

Action Number: 17-BOR-1822

**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 8, 2017, on an appeal filed May 10, 2017.

The matter before the Hearing Officer arises from the April 3, 2017 decision by the Respondent to seek repayment of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Robin Goode, 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 Hearing Request Information form
- D-2 Hearing Summary
- D-3 Benefit Recovery Referral information
- D-4 SNAP Issuance History
- D-5 Eligibility Summary notices dated October 26, 2015, December 1, 2015 and January 12, 2016
- D-6 Notices of Over Issuance dated April 3, 2017
- D-7 SNAP redetermination form dated November 22, 2016, with Rights and Responsibilities
- D-8 Case Comments
- D-9 Referral/Claim Comments
- D-10 Establish Claim information

- D-11 Conviction and Sentencing Order, [REDACTED] County, [REDACTED] Circuit Court, for [REDACTED]
- D-12 West Virginia Income Maintenance Manual Chapter 20
- D-13 West Virginia Income Maintenance Manual Chapter 1.2.E
- D-14 West Virginia Income Maintenance Manual Chapter 9.1.A.2.g(6)
- D-15 Food Stamp Claim Determination information, SNAP Claim Calculation Sheets, Food Stamp Allotment Determination and Non-Financial Eligibility Determination
- D-16 Appellant's paystubs
- D-17 Copies of Department letters, including Non-Financial Eligibility Determinations, Food Stamp Allotment Determinations and Eligibility Summary notices sent to Appellant from November 2015 – May 2017

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), formerly Food Stamp Program, benefits.
- 2) On April 3, 2017, the Respondent sent the Appellant Notices of Over Issuance (D-6), informing her that she had received an overpayment of SNAP benefits for the period of November 2015 - September 2016.
- 3) The Respondent contends that the Appellant received incorrect SNAP issuances after [REDACTED] was added to her SNAP case effective November 2015. Mr. [REDACTED] who shares common children with the Appellant, had reportedly moved into the Appellant's home in September 2015.
- 4) The Respondent maintains that Mr. [REDACTED] had a drug felony conviction that was not reported to the Respondent at the time he moved into the Appellant's home. As per policy, the drug felony conviction renders him permanently ineligible to receive SNAP benefits.
- 5) The Respondent contends that the Appellant and Mr. [REDACTED] were in the WVDHHR office in October 2015 to ask why Mr. [REDACTED] was added into her SNAP case. However, the drug felony conviction was not reported at that time.
- 6) The Respondent verified that the drug felony conviction occurred in 2009 in the State of [REDACTED] (see Exhibit D-11).
- 7) The Respondent indicated that the Assistance Group error resulted in a \$1,319 overpayment of SNAP benefits for the period in question (see D-3, D-4). The over issuance for November 2015 was labeled as an agency error, while the over issuances for December 2015-September 2016 were determined to have been caused by client error (failure to report).

- 8) The Appellant did not dispute the drug felony conviction, but testified that she reported the conviction to the Respondent in 2015; therefore, the overpayment should not have been determined a client error. She testified that she and Mr. [REDACTED] were never in the WVDHHR office together.
- 9) Case Comments state that the Appellant informed a Department worker that Mr. [REDACTED] was a drug felon in September 2016 and he was removed from the SNAP benefits. No documentation was provided to indicate the Respondent had knowledge of the felony conviction prior to that date.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 9.1.A.2.g (6) (D-14) 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 (D-12) 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.

West Virginia Income Maintenance Manual Chapter 1.2.E (D-13) states that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.

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.

While the Appellant testified that she reported Mr. [REDACTED] drug felony conviction, no documentation was provided to indicate that this information was reported to the Respondent prior to September 2016.

Based on information provided during the hearing, the Respondent's proposal to seek repayment of a SNAP overpayment for November 2015 (agency error) and December 2015 through September 2016 (client error) is correct.

CONCLUSION OF LAW

The Respondent acted correctly in seeking repayment of SNAP benefits for the period of November 2015 through September 2016.

DECISION

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

ENTERED this 16th Day of June 2017.

Pamela L. Hinzman
State Hearing Officer