



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

June 23, 2017



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1843

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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

cc: Brian Shreve, Repayment Investigator

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

██████████,

Appellant,

v.

Action Number: 17-BOR-1843

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on June 8, 2017, on an appeal filed May 15, 2017.

The matter before the Hearing Officer arises from the May 12, 2017 decision by the Respondent to establish a repayment claim against the Appellant's receipt of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by the Repayment Investigator Brian Shreve. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Benefit Recovery Referral from Respondent's SNAP issuance computer network
- D-2 SNAP Case Recordings, dated April 1, 2016 – February 22, 2017
- D-3 Print-out from WV Department of Motor Vehicles, driver's license information for Appellant and ██████████
- D-4 Print-out from Respondent's SNAP issuance computer network indicating household mailing address, dated April 1, 2016, September 13, 2016, January 26, 2017, and February 22, 2017; and property tax tickets for Appellant and ██████████, for tax years 2015 and 2016
- D-5 Information sheet from the WV Department of Motor Vehicles (DMV) regarding the REAL ID/Federal Use Driver's License
- D-6 Form ES-FS-5, Food Stamp (SNAP) Claim Determination
- D-7 WV Income Maintenance Manual (WV IMM), Chapter 9, §9.1.A.1.b(2)

- D-8 WV IMM, Chapter 9, §9.1.B
- D-9 Print-out from iPact, computer information from the WV Bureau of Vital Records
- D-10 WV IMM, Chapter 20, §20.2
- D-11 Letter from Department to Appellant, dated May 12, 2017

Appellant's Exhibits

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence during 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's household had been closed for SNAP benefits since September 2016. On January 26, 2017, the Appellant reapplied for SNAP benefits, reporting four persons, herself and three children, and no income in the household (Exhibit D-2).
- 2) The Department received anonymous information to the effect that the Appellant's husband, who was working and receiving earned income, lived with her.
- 3) The Appellant's husband renewed his WV Driver's License with a "REAL ID/For Federal Use" license on January 20, 2017 (Exhibit D-3). On this license, he listed his mailing address as the same address used by the Appellant.
- 4) The Appellant has reported living at this same address to the WV DHHR since April 2016 and to the [REDACTED] County Sheriff's Tax Office since 2015 (Exhibit D-4).
- 5) The Department created a repayment claim against the Appellant based on the belief that her husband lived in her home from January to March 2017. The amount of the repayment claim was \$1406 (Exhibit D-6).
- 6) The Department sent the Appellant a letter (Exhibit D-11) on May 12, 2017, informing her of the establishment of the repayment claim.
- 7) The Appellant requested a fair hearing to protest the Department's establishment of this repayment obligation.

APPLICABLE POLICY

The WV Income Maintenance Manual (WV IMM), Chapter 9, §9.1.A.1.b(2) states that spouses who live together must be in the same assistance group, even if they do not purchase and prepare meals together.

The WV IMM, Chapter 9, §9.1.B reads, “The income group includes all AG [assistance group] members and all individuals who live with the AG and would otherwise be included in the AG if not ineligible, disqualified or excluded by law. This includes ineligible aliens, those excluded by law, disqualified due to an IPV [intentional program violation], trafficking SNAP for a controlled substance and those who fail to meet the enumeration requirement.”

The WV IMM, Chapter 20, §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.”

WV IMM, Chapter 20, §20.2.C.1 reads, “A UPV claim is established when . . . an unintentional error made by the client resulted in the overissuance . . .”

DISCUSSION

The Department established a repayment obligation against the Appellant because she reported that she and her husband were separated, while he allegedly continued to live with the Appellant in their home. The Department’s representative provided evidence in the form of print-outs from the WV Department of Motor Vehicles (WV DMV) which indicate the Appellant’s husband renewed his WV Driver’s License on January 20, 2017, listing the Appellant’s mailing address as his residence (Exhibit D-3). The Department’s representative pointed out that when the husband did this, he applied for a “REAL ID/For Federal Use” license. He testified that in order to apply for such a license, an applicant must meet more stringent residence verification requirements. He submitted as evidence an information page printed from the WV DMV internet site (Exhibit D-5). This print-out indicates an applicant for a REAL ID driver’s license must provide one proof of identity, one proof of Social Security number and two proofs of West Virginia residence with name and physical address.

The Appellant testified that she and her husband were separated. She testified that he listed her mailing address on his REAL ID license application because all of the utility bills for her household are in his name. She stated that in order to get a REAL ID license for his current residence, he would have to change all of the utilities to his current address. She added that her husband lives with his mother in [REDACTED] WV, a 45-minute drive from her home.

The Department’s representative established the repayment obligation against the Appellant based on the evidence that her husband listed her mailing address on his REAL ID driver’s license application. He may have done so simply because that was the mailing address on his utility bills and it was easier to use his old mailing address than to change all of his bills to his new one.

However, the Department also submitted as evidence case recordings from the Appellant’s SNAP case record, wherein the worker who processed the Appellant’s SNAP application wrote a brief narrative describing the application process. The narrative for January 26, 2017, the date of the Appellant’s SNAP application, reads as follows in part: “[Appellant] in the office today for SNAP and medical for the household. HH of 4. [Appellant] has no income or assets, she is responsible for the electric bill . . .”

The narrative indicated the Appellant had no income in her household but she paid an electricity bill. There was no information in the recording to indicate how the Appellant paid the bill. The preponderance of evidence indicates either the Appellant's husband lived in the home and paid the utility bill or he or someone else paid the Appellant's utility bill and she did not report this financial support.

The Department acted correctly to impose a repayment against the Appellant's receipt of SNAP benefits.

CONCLUSION OF LAW

The WV Income Maintenance manual, in Chapter 20, §20.2, requires the establishment of SNAP repayment claims whenever there has been an excessive issuance of SNAP benefits. As such, the Department correctly established a SNAP repayment claim against the Appellant.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department's decision to establish a SNAP repayment claim in the amount of \$1406 against the Appellant.

ENTERED this 23rd Day of June 2017.

**Stephen M. Baisden
State Hearing Officer**