



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Jim Justice
Governor**

**BOARD OF REVIEW
416 Adams St.
Suite 307
Fairmont, WV 26554
304-368-4420 ext. 79326**

**Bill J. Crouch
Cabinet Secretary**

October 11, 2017

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-2138

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 Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson
State Hearing Officer
State Board of Review

Enclosure: Claimant's Recourse to Hearing Decision
Form IG-BR-29
cc: Cassandra Burns

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

[REDACTED],

Appellant,

v.

ACTION NO.: 17-BOR-2138

**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 September 27, 2017, on an appeal filed July 20, 2017.

The matter before the Hearing Officer arises from the May 18, 2017 decision by the Department to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Cassandra Burns, Repayment Investigator for Investigations and Fraud Management (IFM). The Appellant appeared by [REDACTED], Supervising Attorney for Legal Aid of West Virginia. The Appellant and his wife, [REDACTED], were present and sworn in but did not testify during the hearing. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- D-1 IFM Statement of Advise and Consent, dated April 16, 2017
- D-2 IFM Repayment Agreement, dated April 26, 2017
- D-3 Notification of SNAP Over-issuance, dated May 8, 2017
- D-4 Notice of SNAP Disqualification, dated May 18, 2017
- D-5 Notice of Decreased Benefit Amount, dated May 18, 2017

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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant's household had been receiving SNAP benefits since October 1, 2016.
- 2) On April 26, 2017, the Appellant signed a document agreeing to repay \$308 in over-issued SNAP benefits by reducing his then-current SNAP allotment by twenty (20) percent each month, beginning June 2017, until the total SNAP claim was paid in full. (Exhibit D-2 and D-3)
- 3) On May 8, 2017, a notice was issued advising the Appellant that a fraud claim for \$308 had been established against his household for trafficking and that a portion of his monthly SNAP entitlement would be withheld and applied as payment. (Exhibit D-3)
- 4) Trafficking is a form of Intentional Program Violation (IPV).
- 5) The May 8, 2017 notice advised the Appellant that if an IPV was the reason for overpayment, the benefit reduction would be twenty (20) percent of the Appellant's household monthly entitlement. (Exhibit D-3)
- 6) On May 18, 2017, a notice was issued advising the Appellant that because he was found to have committed an IPV, he had been disqualified from receiving SNAP benefits for a period of twelve (12) months between June 1, 2017 and May 31, 2018. (Exhibit D-4)
- 7) The Appellant's household received \$270 per month in SNAP benefits prior to the Appellant being removed from the Assistance Group (AG). (Exhibit D-4)
- 8) The recoupment amount is based on the entitlement amount prior to the removal of the disqualified member from the AG.
- 9) Twenty (20) percent of the \$270 SNAP benefit amount equals \$54 monthly recoupment. (Exhibit D-5)
- 10) The Appellant's household was estimated to receive \$107 per month in SNAP benefits after the Appellant was removed from the AG. The recoupment amount had not been deducted from the \$107 SNAP benefit estimate. (Exhibit D-4)

- 11) After the \$54 monthly recoupment amount is deducted from the \$107 monthly SNAP benefit, the total benefits to be received by the Appellant's AG equal to \$53 per month in SNAP benefits. (Exhibit D-5)
- 12) On May 18, 2017, a notice was issued advising the Appellant that SNAP benefits would decrease from \$270 to \$53 per month effective June 1, 2017. (Exhibit D-5)
- 13) The repayment of SNAP over-issuance and the decrease in eligible AG members due to the Appellant's disqualification for SNAP Trafficking Violation were the given reasons for the SNAP benefit decrease. (Exhibit D-5)
- 14) The benefit calculations provided in the May 18, 2017 notice are consistent with policy requirements for a benefit amount reduction resulting from a repayment claim against the Appellant due to an IPV. (Exhibit D-5)
- 15) The reduced SNAP benefit amount for the Appellant's AG was correctly calculated. (Exhibit D-5)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) §9.1.2 provides in part:

The following individuals who reside with an assistance group (AG) are not considered AG members or are ineligible to be included in the AG: ...

(h) Intentional Program Violation (IPV)

Persons who have been found guilty of an IPV are disqualified as follows:

- 1st offense: 1 year
- 2nd offense: 2 years
- 3rd offense: Permanent

WVIMM §20.2. C.2 provides in part:

IPV claims must be established for trafficking-related offenses. Claims arising from trafficking related offenses are the value of the trafficking benefits as determined by the individual's admission, adjudication, or documentation that forms the basis of the trafficking determination.

WVIMM §20.2. E provides in part:

Collection action is initiated against the AG which received the over-issuance. When the AG composition changes, collection is pursued against

any and all AG's which include a liable debtor.

The following persons are equally liable for the total amount of the overpayment and are liable debtors:

- Adult or emancipated minors in the AG
- Disqualified individuals who would otherwise be required to be included...

...Recoupment by benefit allotment reduction is mandatory for all claims when a liable debtor is certified for SNAP. RAPIDS automatically begin recoupment and posts these payments to the claim.

WVIMM §20.2. F.2 provides in part:

(a) Current Recipients:

The current benefit entitlement after the disqualified member has been removed from the AG, is reduced by twenty (20) percent of the entitlement or \$20, whichever is greater. The reduction is based on the entitlement amount prior to the removal of the disqualified member.

WVIMM §20.2. G provides in part:

The Hearings Officer only rules on the type and amount of claim.

DISCUSSION

The Respondent established a \$308 SNAP repayment claim against the Appellant due to a trafficking Intentional Program Violation (IPV). A reduction in eligible members of the Appellant's Assistance Group (AG) and the application of an over-issuance recoupment deduction reduced the Appellant's household SNAP benefits from \$270 per month to \$53 per month. The Appellant requested a fair hearing to establish the reason for the SNAP benefit reduction and to contest the reduced amount.

Pursuant to policy, the Respondent had to show by a preponderance of evidence that the Appellant's SNAP benefit reduction was due to an IPV penalty against the appellant and that the reduced benefit amount was properly calculated. Notices and testimony presented by the Respondent clearly demonstrate that the Appellant would be disqualified from his AG due to a trafficking finding by IFM. The Respondent testified that trafficking is a form of IPV. During the fair hearing, the Respondent testified that although the Appellant was verbally educated by the Respondent that the reason for repayment was due to an IPV, the Repayment Agreement entered into evidence by the Respondent reads that the over-issuance and repayment are due to the Appellant's failure to report unearned income. Subsequent notices issued to the Appellant by the Respondent reflect that the reason for the Appellant's SNAP disqualification are due to a

trafficking IPV. The Appellant did not contest that an IPV related over-issuance of SNAP benefits and subsequent disqualification penalty and repayment claim were the reasons for the reduction in the Appellant's household SNAP benefits. The Appellant contended that without information demonstrating the IPV was appropriately established that it could not be determined that the Appellant was over-issued SNAP benefits for which he should be required to repay. Pursuant to policy, in the matter before the Board of Review, this Hearing Officer can only rule on the type and amount of the claim, not whether an IPV had occurred. The Appellant argued that the knowledge of the basis for the IPV claim is necessary to establish the amount of the repayment agreement. The establishment of the over-issuance amount is not an issue that can be ruled upon by the Board of Review in this matter. The Hearing Officer can only determine whether the recoupment amount was properly calculated and deducted from the Appellant's household SNAP benefits. Further, the Respondent testified that the Appellant's understanding and cooperation to sign the Repayment Agreement would not change the Appellant's disqualification from his AG or the calculation of the recoupment amount deducted from the Appellant's monthly household SNAP benefits.

For an IPV, policy requires that the recoupment amount be calculated twenty (20) percent from the Appellant's benefit amount prior to the Appellant being removed from the assistance group. The Appellant's AG received \$270 per month in SNAP benefits prior to his disqualification. Twenty (20) percent of \$270 is equal to \$54 SNAP recoupment per month. Evidence presented by the Respondent demonstrates that once the Appellant was disqualified from his benefit group, the SNAP monthly benefit amount for his AG decreased to \$107 before recoupment deduction. Once the \$54 monthly recoupment is subtracted from the Appellant's household \$107 SNAP monthly benefit, the remaining household SNAP benefits equal \$53 monthly. This calculation is reflected on the notice of decreased benefits, dated May 18, 2017 (Exhibit D-5), and is consistent with policy requirements for determining the repayment amount for an IPV.

The Respondent has demonstrated by a preponderance of evidence that the SNAP benefit reduction reflected in the May 18, 2017 notice to the Appellant was the result of the implementation of an IPV disqualification penalty and over-issuance repayment claim against the Appellant. Further, the Respondent has demonstrated that the calculations used to determine the reduced SNAP benefit amount for the Appellant's household were calculated in accordance to policy requirements.

CONCLUSIONS OF LAW

- 1) The reduction of the Appellant's household SNAP benefits was a result of a finding by IFM that the Appellant had committed an Intentional Program Violation (IPV) by trafficking.
- 2) Policy requires that persons who have been found guilty of a first offense IPV must be disqualified from SNAP benefits for a period of one (1) year.
- 3) The Appellant's disqualification from his Assistance Group (AG) reduced the amount of eligible persons to receive SNAP benefits in his household.

- 4) Policy requires that the recoupment amount for an IPV over-issuance claim be calculated based on a reduction of SNAP benefits by twenty (20) percent of the Appellant's household entitlement amount prior to the removal of the disqualified member.
- 5) The Respondent correctly calculated the recoupment amount to be deducted from the Appellant's household SNAP benefits once the Appellant was removed from the AG.
- 6) The Appellant's household SNAP entitlement amount reflected in the May 18, 2017 notice of a decrease from \$270 to \$53 SNAP benefits per month is correct.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's decision to reduce the Appellant's household SNAP benefits due to implementation of an IPV disqualification penalty and an over-issuance repayment claim against the Appellant.

ENTERED this 11th day of October 2017.

Tara B. Thompson
State Hearing Officer