



**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**

October 30, 2017

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-2392

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,

Todd Thornton
State Hearing Officer
State Board of Review

Encl.: Appellant's Recourse
Form IG-BR-29

cc: Brian Shreve, Department Representative

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

██████████,

Appellant,

v.

Action Number: 17-BOR-2392

**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 October 25, 2017, on an appeal filed September 1, 2017.

The matter before the Hearing Officer arises from the August 11, 2017 decision by the Respondent to establish a SNAP repayment claim against the Appellant.

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

EXHIBITS

Department's Exhibits:

- | | |
|-----|--|
| D-1 | Data system screen print
Benefit Recovery Referral
Referral Date: June 8, 2017 |
| D-2 | Statement from the Appellant's employer (illegible) |
| D-3 | Data system screen print
Employment
Last Updated Date: December 14, 2016 |

- D-4 Data exchange screen prints – Appellant and spouse
WV Bureau of Employment Programs (BEP) Employee Wage Data
Retrieved Date: July 26, 2017
- D-5 West Virginia Income Maintenance Manual (WVIMM)
Chapter 10, Appendix A
- D-6 WVIMM
Chapter 2.2 (excerpt)
- D-7 Notice of Decision
Mailing Date: December 15, 2016
- D-8 Food Stamp (SNAP) Claim Determination
ES-FS-5 Form; Supporting documentation
- D-9 WVIMM
Chapter 20.2
- D-10 Notice of Decision
Notice Date: August 11, 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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant was a recipient of SNAP benefits.
- 2) The Respondent received a repayment referral indicating the household income for the Appellant was incorrect. (Exhibit D-1)
- 3) The investigator for the Respondent discovered two errors in his review of the Appellant's SNAP case: the wrong multiplier was used to convert a reported income frequency to a monthly amount; and a change in total household income to an amount over the SNAP gross income limit.
- 4) The investigator for the Respondent determined the Appellant received excessive SNAP benefits from January to June 2017, in the amount of \$1,212 as a result of these two errors. (Exhibit D-8)
- 5) By notice dated August 11, 2017, the Respondent notified the Appellant of the establishment of a \$1,212, "client error" claim against her household, due to "wages/salaries – unreported/incorrect." (Exhibit D-10)

APPLICABLE POLICY

The WV Income Maintenance Manual (WVIMM), at §20.2, reads “When an AG [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 (2), policy notes that an overissuance resulting from a computation error is an agency error.

At §2.2.B.1, SNAP policy addresses limited reporting requirements, and reads, “Once approved, all AGs must report when the total gross earned and unearned income of the AG and all other individuals who reside with the AG exceeds the AG’s gross income limit.”

DISCUSSION

The Appellant is contesting the decision of the Respondent to establish a \$1,212 SNAP repayment claim against her. The basis of this claim is an incorrect income calculation and the failure to report the onset of excessive income for her household. The Respondent must show by preponderance of the evidence that it correctly established this claim against the Appellant.

There was no dispute of the income amounts, sources or frequencies. There was no dispute that the Appellant was subject to “limited reporting” requirements as set by SNAP policy. The Appellant offered unconvincing testimony that she “reported everything.” The Respondent showed that for two months – January and February 2017 – the Appellant’s household income was not correctly converted to a monthly amount. The Respondent also showed that for the remaining months of the claim period – from March to June 2017 – the Appellant’s household had excessive income for SNAP, and was totally ineligible for the SNAP benefits received in that period.

The claim established by the Respondent is predominantly client error – either in terms of duration or in dollar-weighted terms – and the Appellant’s dispute of this client error status was limited to her claim that she had “reported everything.” The portion of this claim that could be classified as agency error did not hinge on the reporting element, but rather an incorrect calculation by the Respondent at the start of the claim period. The Respondent acted correctly to establish a \$1,212 client error SNAP repayment claim against the Appellant for excessive benefits received between January and June 2017.

CONCLUSIONS OF LAW

- 1) Because the Appellant received \$1,212 in excessive SNAP benefits from January to June 2017, the Respondent was correct to establish a SNAP repayment claim against the Appellant in that amount.
- 2) Because a greater portion of the underlying errors contributing to this claim meet the policy classification of “client error,” the Respondent was correct to establish the \$1,212 claim against the Appellant as a client error claim.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to establish a \$1,212 SNAP “client error” claim against the Appellant.

ENTERED this ____ day of October 2017.

Todd Thornton
State Hearing Officer
Board of Review