



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

November 29, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2442

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 Parker 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: Christina Saunders, Repayment Investigator

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

██████████,

Appellant,

v.

Action Number: 17-BOR-2442

**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 November 16, 2017, on an appeal filed September 8, 2017. This hearing originally was scheduled for October 19, 2017, but was rescheduled at the Appellant's request.

The matter before the Hearing Officer arises from the August 9, 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 Repayment Investigator Christina Saunders. Appearing as a witness for the Respondent was Edgar Buster, Front-End Fraud Unit (FEFU) Investigator. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was her mother ██████████. All 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, along with Form ES-FS-5, Food Stamp (SNAP) Claim Determination
- D-2 Print-out from Respondent's SNAP issuance computer network, showing SNAP issuance history
- D-3 Case comments from Appellant's SNAP case record, dated July 20, 2015 to January 12, 2017
- D-4 Form ECE-CC-1B, New Employment Verification, dated July 2, 2015, along with letter from ██████████, dated August 24, 2017

- D-5 Written statement signed by Appellant's mother, undated
- D-6 Four paycheck copies and paycheck receipts from [REDACTED], dated July 2, 2015, July 31, 2015, August 7, 2015 and August 14, 2015
- D-7 Form IFM-FEFU-1, Front-End Fraud Unit Investigative Findings, dated October 3, 2016
- D-8 Form IG-IFM-Wage-Verification, Employment Data form sent to [REDACTED], on September 19, 2016, completed by [REDACTED] employee and returned on September 23, 2016
- D-9 Mail-in SNAP Review form, signed and dated by Appellant on August 20, 2015
- D-10 SNAP Review/Application form, signed and dated by Appellant on August 24, 2015
- D-11 Medicaid Review form, signed and dated by Appellant on December 28, 2015
- D-12 SNAP 6-Month Contact form, signed and dated by Appellant on December 22, 2015
- D-13 Medicaid Review form, signed and dated by Appellant on April 28, 2016
- D-14 SNAP Review form, signed and dated by Appellant on June 22, 2016
- D-15 WV Income Maintenance Manual (WV IMM), Chapter 10, §10.3.JJJJ
- D-16 WV IMM, Chapter 20, §20.2

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 received SNAP benefits for her household, which consisted of herself and three children, from October 2015 through October 2016 (Exhibit D-1).
- 2) In October 2016, the Department received a report to the effect that the Appellant had been working for [REDACTED] since June 2015 (Exhibit D-1). The Appellant had reported working for [REDACTED] on July 20, 2015, (Exhibit D-3).
- 3) On July 23, 2015, the Appellant submitted a New Employment Verification form to the WV DHHR, [REDACTED] County Office, indicating she was hired on June 15, 2015, in the position of homemaker (Exhibit D-4).
- 4) The Appellant submitted a letter purporting to be from her employer stating she no longer was employed by [REDACTED] as of July 13, 2015 (Exhibit D-5). There is no information on this letter to indicate when the [REDACTED] DHHR office received it.
- 5) The Department established a repayment claim against the Appellant due to unreported earned income from October 2015 to October 2016. The amount of the repayment claim was \$4395 (Exhibit D-1).

- 6) 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 10, §10.3.JJJJ states that Title XIX Medicaid Waiver payments are counted as earned income in the SNAP program, provided the individual to whom the payments are made is an employee. Otherwise, they are considered self-employment income.

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."

DISCUSSION

The Department established a repayment obligation against the Appellant because she received SNAP benefits for herself and children in her care from October 2015 through October 2016, allegedly without reporting that she received earned income throughout this period of time.

The Department's representative submitted as evidence an employment verification form completed by the Appellant's employer indicating her hire date was June 15, 2015 (Exhibit D-4). She submitted paycheck stubs from the employer dated July 2, July 31, August 7 and August 14, 2015, made payable to the Appellant (Exhibit D-6).

The Department's representative testified that an investigator from the DHHR's Front-End Fraud Unit (FEFU) submitted a letter requesting information regarding the Appellant's employment to her employer, [REDACTED]. She testified that [REDACTED] returned the letter with attached information (Exhibit D-8). This attached information included an Employment Data form indicating the Appellant was hired on December 1, 2011 and still was employed as of September 23, 2016. The attached information also included 31 paycheck stubs, dated from August 14, 2015, through September 23, 2016.

The Department's representative submitted benefit review forms from the WV DHHR wherein the Appellant had reported household information as part of her continued eligibility for Medicaid and SNAP. The Appellant submitted a Medicaid review form on August 24, 2015 (Exhibit D-9), a SNAP review/application form on August 24, 2015 (Exhibit D-10), a Medicaid review form on December 28, 2015 (Exhibit D-11), a SNAP six/twelve-month contact form on December 28, 2015 (Exhibit D-12), a Medicaid review form on May 6, 2016 (Exhibit D-13) and a SNAP review form on June 28, 2016 (Exhibit D-14). On each of these forms, the Appellant reported no earned income in her household.

The Appellant testified that none of the income issues related to the repayment obligation occurred until she spent some time as an intern at the WV DHHR, [REDACTED] County Office. She testified that when she became an intern, an Economic Service Supervisor informed her that he would ensure that only a DHHR supervisor had access to her case record and that if she had any

information relevant to her receipt of public assistance, she should bring it to him. The Appellant speculated that when the supervisor began to scrutinize her case record, her previous workers, realizing they had not updated her record properly, began to enter previously missing information.

The Appellant testified that she had provided homemaker services for her grandmother through the WV Aged and Disabled Waiver (ADW) Program. She testified that she stopped providing these services on July 13, 2015, as the employer's statement indicated. However, she said, it was easier to allow the checks to come in her name and then pay out the funds to replacement homemakers rather than have the homemaker changed through her employer. She stated that for this reason, she did not receive any of the money from these paychecks, and the money went to replacement homemakers hired by her mother. She added that she had submitted a letter to the WV DHHR to this effect, but because of the Department's mishandling of her case record, the letter was not included in her case record or the Department's evidence.

The Department provided evidence that indicates the Appellant received earned income from October 2015 through October 2016. The Department provided evidence that indicates the Appellant did not report her earnings on benefit reviews throughout the repayment period. The Appellant provided no evidence to support her allegation that she did not receive this money, or that it was diverted to others to pay for her grandmother's care. The Department has provided a preponderance of evidence to support its establishment of the repayment obligation.

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. The Department established by a preponderance of evidence that the Appellant received excessive issuances of SNAP benefits because she did not report her earned income. As such, the Department acted correctly to establish 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 against the Appellant in the amount of \$4395.

ENTERED this 29th Day of November 2017.

Stephen M. Baisden
State Hearing Officer