



**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 30, 2017



RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-2448

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: Wanda Morgan

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

██████████,

Appellant,

v.

ACTION NO.: 17-BOR-2448

**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 11, 2017, on an appeal filed September 7, 2017.

The matter before the Hearing Officer arises from the August 30, 2017 decision by the Department to establish a repayment claim against the Appellant due to an over-issuance of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Wanda Morgan, Repayment Investigator with Investigations and Fraud Management (IFM). The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- D-1 SNAP Benefit Recovery Referral, dated November 18, 2016
- D-2 SNAP Overpayment calculation
- D-3 SNAP Benefit Recovery Referral Claim Comments, dated August 28, 2017 through September 7, 2017
- D-4 West Virginia Income Maintenance Manual (WVIMM) §20.2
- D-5 Student Transcripts, dated November 14, 2016
- D-6 INROADS Application, submitted June 3, 2016
- D-7 SNAP Over-Issuance Repayment Claim Notification, dated August 30, 2017

D-8 [REDACTED] Paystubs, dated June 2016
D-9 eRAPIDS print-out, filing date February 9, 2014

Appellant's Exhibits:

A-1 SNAP contact form, mailing date October 24, 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) On June 3, 2016, the Appellant completed an INROADS application for SNAP benefits. (Exhibit D-6)
- 2) On the Appellant's application, she listed \$125 weekly earned income from employment with [REDACTED] averaging fourteen (14) hours per week. Paystubs submitted corroborated that the Appellant worked less than 20 hours per week. (Exhibits D-6 and D-8)
- 3) On the Appellant's application, she recorded that she was enrolled in school full time. (Exhibits D-1 and D-6)
- 4) The Appellant applied an electronic signature to her application indicating that she has read, understood, and agreed to the Rights and Responsibilities. (Exhibit D-6)
- 5) The Respondent failed to correlate the Appellant's student status and work hours resulting in the Appellant being incorrectly approved to receive SNAP benefits. (Exhibit D-6)
- 6) The Appellant received SNAP benefits from June 16, 2016 through December 31, 2016. (Exhibits D-6 and D-7)
- 7) On October 26, 2017, the Appellant signed a SNAP contact form claiming no changes to household or income. (Exhibit A-1)
- 8) On November 17, 2016, the Appellant's school transcripts were scanned into the Respondent's record. (Exhibit D-5)
- 9) On November 18, 2016, a Benefit Recovery Referral was initiated due to the Appellant's ineligibility for benefits due to her student status since the time of the Appellant's application. (Exhibit D-1)
- 10) On August 30, 2017, the Appellant was notified of a repayment claim in the amount of \$1,345 in SNAP over-issuance from June 16, 2017 through December 31, 2016, due to a client error regarding the Appellant's school attendance. (Exhibit D-7)

- 11) The notice incorrectly identifies the over-issuance because of client error. An agency error was the cause for over-issuance of SNAP benefits to the Appellant.
- 12) At the time of the hearing, the Appellant had a \$278.96 balance of SNAP benefits.
- 13) During the hearing, the Respondent and the Appellant agreed that the remaining SNAP benefit balance would be applied to the repayment amount. The parties agreed the Appellant's repayment total after application of the SNAP balance equaled \$1,066.04.

APPLICABLE POLICY

WVIMM §9.1. A.2 (f): Who Cannot Be Included- Students provides in part:

For individuals determined to be students, participation in the SNAP program is limited to those students who meet the criteria...

- (2) Students Eligible to Participate: Students who meet one or more of the following criteria are eligible to participate, provided all other eligibility factors are met:
 - The student is employed at least 20 hours per week or 80 hours a month, and is paid for the employment...
 - The student is participating in a state or federally financed CWS program during the regular school year.
 - The student is included in a WV WORKS payment.
 - The student is assigned to or placed in an institution of higher education through one of the following...:
 - The SNAP Employment and Training Program (SNAP E&T)
 - Workforce Investment Act (WIA)
 - Section 236 of the Trade Act of 1974
 - An employment and training program for low-income households that is operated by a state or local government when one or more of the program's components is at least equivalent to SNAP E&T.
 - The student has the principal responsibility for the care of a child who meets certain criteria...

WVIMM §20.2 SNAP Claims provides in part:

When an Assistance Group (AG) 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.

WVIMM §20.2. C.1 UPV Claims provides in part:

There are two types of UPV's, client errors and agency errors.

A UPV claim is established when:

- An error by the Department resulted in the over-issuance
- An unintentional error made by the client resulted in the over-issuance...

a. Agency Errors:

- (1) Failure to Take Prompt Action: The first month of over-issuance is the month the change would have been effective had the agency acted promptly.
- (2) Computation Error: The first month of over-issuance is the month the incorrect allotment was effective

DISCUSSION

The Appellant applied for SNAP benefits in June 2016. The Appellant was approved to receive SNAP benefits beginning in June 2016. In August 2017, the Respondent issued a notice advising the Appellant that a repayment claim had been established against her due to over-issuance of SNAP benefits related to a client error regarding the Appellant's student status. The Appellant contended that the Respondent approved her for benefits in error and argued that she should not be liable for repayment of over-issued benefits.

The Respondent had to demonstrate by a preponderance of evidence that it correctly followed policy when establishing a repayment claim against the Appellant. The Appellant contended that she submitted all required employment documentation and was told by a worker that she was eligible to receive benefits. She contended that she would not have signed up for SNAP benefits if she had known she were ineligible. The Respondent testified that the approval of SNAP benefits could have been due to a miscalculation by a worker not understanding the listed work hours on the application. The Respondent argued that the worker could have been subject to oversight due to the volume of client cases the worker manages. The Respondent testified that the Appellant signed a Rights and Responsibilities form when completing her application that reflected the Appellant understood she was liable for repayment for benefits over-issued regardless of cause by client or appellant error. The Appellant did not contest that she signed the Rights and Responsibilities form or that she was informed of her repayment responsibility.

The Appellant's application for benefits does reflect that she disclosed her student status and less than twenty (20) work hours per week at the time of application. Evidence reflects that the Appellant was below the required twenty (20) work hours per week to be eligible for SNAP benefits as a student. The Respondent failed to apply the correlation between student status and less than twenty (20) work hours per week, resulting in the Appellant incorrectly being approved

for SNAP benefits. The notice to the Appellant incorrectly identifies the over-issuance reason as a client error; the correct reason for the over-issuance is an agency error.

Because the worker incorrectly approved the Appellant for SNAP benefits, an over-issuance of benefits to the Appellant occurred. Once the Respondent determined the Appellant was a student and ineligible for benefits, they acted according to policy and established a benefit recovery referral for SNAP benefits over-issued to the Appellant between June 16, 2016 and December 31, 2017. An agency error is a type of Unintentional Program Violation (UPV). Pursuant to policy, when an over-issuance occurs because of a UPV, a repayment claim must be established. During the hearing, the parties agreed to apply the Appellant's current \$278.96 SNAP benefit balance to the repayment amount owed and agreed that the new repayment amount would be \$1,066.04.

CONCLUSIONS OF LAW

- 1) The Respondent committed an Unintentional Program Violation by agency error when they failed to apply the correlation between the Appellant's reported student status and less than twenty (20) work hours per week.
- 2) Because the Respondent incorrectly approved the Appellant for SNAP benefits, an over-issuance of SNAP benefits to the Appellant occurred between June 16, 2017 and December 31, 2016.
- 3) Policy provides that a repayment claim be established when a UPV results in an over-issuance of SNAP benefits.
- 4) The Respondent correctly established a SNAP repayment claim against the Appellant for \$1,345 in over-issued benefits.
- 5) The parties agreed to apply the Appellant's \$278.96 SNAP benefit balance to the repayment amount owed. After the \$278.96 SNAP benefit balance is applied, the repayment amount owed equals \$1,066.04.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's decision to establish a SNAP benefit repayment claim against the Appellant. It is hereby **ORDERED** that the Respondent apply the Appellant's \$278.96 SNAP benefit balance to the repayment claim of \$1,345 and that the adjusted repayment amount owed by the Appellant equal \$1,066.04.

ENTERED this 30th day of October 2017.

Tara B. Thompson
State Hearing Officer