



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

**Bill J. Crouch
Cabinet Secretary**

**Board of Review
416 Adams Street Suite 307
Fairmont, WV 26554
304-368-4420 ext. 79326**

**Jolynn Marra
Interim Inspector General**

September 5, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 18-BOR-2038

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: Appellant's Recourse
Form IG-BR-29

cc: Wanda Morgan, Investigations and Fraud Management

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

██████████,

Appellant,

v.

ACTION NO.: 18-BOR-2038

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on August 15, 2018 and reconvened on August 29, 2018 on an appeal filed July 17, 2018.

The matter before the Hearing Officer arises from the July 2, 2018 determination by the Respondent 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, Investigations and Fraud Management (IFM). The Appellant appeared *pro se*. Appearing as witness for the Appellant was ██████████, the Appellant's mother. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 DHHR IFM Notice, dated August 8, 2018
- D-2 eRAPIDS Case Comments, dated December 13, 2017 through February 2, 2018
- D-3 DHHR Application for Benefits, signed January 19, 2017
- D-4 DHHR Rights and Responsibilities, received by DHHR on January 24, 2017
- D-5 DHHR SNAP Contact Form, signed May 29, 2017
- D-6 eRAPIDS Case Comments, dated February 23, 2017 through December 12, 2017
- D-7 DHHR Notice, dated June 1, 2017
- D-8 DHHR SNAP Review Form, dated November 13, 2017
- D-9 eRAPIDS Case Comments, dated December 13, 2017 through February 2, 2018
- D-10 DHHR Appointment Letter, dated December 18, 2017
- D-11 DHHR SNAP Review Form, received by DHHR on December 14, 2017
- D-12 DHHR Verification Checklist, dated December 28, 2017
- D-13 Pay Stubs, dated November through December 2017
- D-14 eRAPIDS Employment Income Print-out
- D-15 Employment Wage Data, dated 2013 through 2018
- D-16 eRAPIDS State Wage Details, dated 2017 through 2018

- D-17 Benefit Recovery Referral, dated December 27, 2017; Investigation Findings, dated June 29, 2018; Establish Claim, dated June 29, 2018; Overpayment Sheet
- D-18 eRAPIDS Case Summary
- D-19 eRAPIDS Case Benefit Summary
- D-20 eRAPIDS SNAP Budgets July 2017 through December 2017
- D-21 West Virginia Income Maintenance Manual §4.1 and §4.3

Appellant's Exhibits:

- A-1 [REDACTED] Letter, dated August 14, 2018

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 is a recipient of SNAP benefits for a one-person Assistance Group (AG). (Exhibits D-6, D-7, D-9, D-14, D-18, D-19)
- 2) The Appellant was not employed and did not receive earned income at the time of her January 19, 2017 SNAP application or at the time she completed her May 29, 2017 6-month SNAP contact form. (Exhibits D-3, D-6, D-7, D-15, and D-16)
- 3) During the second quarter of 2017, the Appellant earned \$48 from [REDACTED]. (Exhibit D-15)
- 4) On May 29, 2017, the Appellant signed SNAP Rights and Responsibilities form, marking that she understood her responsibility to report when her income exceeded the SNAP gross Assistance Group (AG) limit and that she must report the income by the 10th of the month after the increase occurred. (Exhibit D-4)
- 5) On June 1, 2017, the Respondent issued a notice advising the Appellant that her SNAP benefits would continue at \$194 per month through the certification end date on December 31, 2017. (Exhibit D-7)
- 6) The June 1, 2017 notice advised the Appellant that she must report if her income increased to more than \$1,287 per month. (Exhibit D-7)
- 7) On July 5, 2017, the Appellant began employment at [REDACTED]. (Exhibit A-1)
- 8) The Respondent Employment Income and Case Comment records completed by Respondent worker, Leslie Keyser, reflected an incorrect [REDACTED] beginning date of employment for the Appellant of June 30, 2016. (Exhibits D-2, D-9, and D-14 through D-16)
- 9) On December 14, 2017, the Respondent received the Appellant's SNAP review form reporting her [REDACTED] employment and confirmed the Appellant's [REDACTED] employment during a phone interview on December 27, 2017. (Exhibits D-2, D-9, and D-11)

- 10) The Respondent worker's December 27, 2017 case comment reflected that the Appellant had reported employment at [REDACTED] for "almost a year." (Exhibits D-2 and D-9)
- 11) On December 28, 2017, the Respondent issued a verification checklist to the Appellant requiring the Appellant to provide proof of gross earned income from [REDACTED] for December 8, 2017 and December 22, 2017. (Exhibit D-12)
- 12) On December 28, 2017, the Appellant submitted [REDACTED] paystubs for pay periods November 23, 2017 through December 20, 2017. (Exhibits D-2, D-9, and D-13)
- 13) On December 27, 2017, a referral was made to IFM alleging that the Appellant failed to report her employment and income on her SNAP application and 6-month reporting form and subsequently may have received SNAP benefits for which she was not entitled. (Exhibit D-17)
- 14) On June 29, 2018, the Respondent completed IFM investigation findings that reflected the Appellant was a limited reporter, began working in the second quarter of 2017, and failed to report earned income at her May 31, 2017 review. (Exhibit D-17)
- 15) On July 7, 2018, the Respondent issued a notice advising the Appellant that a repayment claim was being established because she was over-issued SNAP benefits during the period February 7, 2017 through December 7, 2017 due to client error by failure to report wages or salaries.
- 16) The Appellant's averaged gross monthly earnings were \$901 per month during the third quarter of 2017 and \$1,042 monthly during the fourth quarter of 2017. (Exhibits D-15 and D-16)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) §4.4.1.D provides in part:

Quarterly amount of income is divided by 3 to determine a monthly amount.

WVIMM §10.4.2 provides in part:

All SNAP assistance groups (AGs) must report changes related to eligibility and benefit amount at application and redetermination. [emphasis added] SNAP AGs are subject to limited reporting requirements.

WVIMM §10.4.2.A provides in part:

When approved with a gross non-excluded income at or below 130% of the Federal Poverty Level (FPL), an AG must report when the total gross non-excluded earned and unearned income of the Income Group (IG) exceeds 130% of the FPL for the number of individuals in the original AG. [emphasis added]

If an AG approved with income at or below 130% of the FPL reports non-excluded income in excess of 130% of the FPL, the AG's eligibility must be reevaluated. If the AG remains eligible for SNAP, the AG is then required to report when the total non-excluded earned and unearned income of the Income Group exceeds 200% of the FPL for the number of individuals in the original AG

These changes must be reported no later than the 10th calendar day of the month following the month in which the change occurs.

WVIMM §10.4.2.C provides in part:

To determine if a claim for benefit repayment must be established, a decision must be made as to whether a change was reported in a timely manner. When the client does not report in a timely manner and the change could have been made earlier, a claim for benefit repayment may be established.

WVIMM §10.4.3.B provides in part:

When the reported change results in a decrease in benefits, the change is effective the following month, if there is time to issue advanced notice. If not, the change is effective two months after it occurs. No claim is established unless the client failed to report in a timely manner and this is the only reason the change could not be made within 13 days for the advanced notice period.

WVIMM Chapter 4, Appendix A:

For a one-person AG, 130% of the Federal Poverty Level is \$1,307.

DISCUSSION

The Appellant is a recipient of SNAP benefits for a one-person AG. The Respondent investigated the Appellant's receipt of SNAP benefits and issued a notice on July 7, 2018, advising the Appellant that a repayment claim was being established because she was over-issued SNAP benefits during the period of February 7, 2017 through December 7, 2017 due to client error by failure to report wages or salaries. The Appellant disagreed with the Respondent's decision to establish a repayment claim and argued that she followed wage reporting requirements.

The Respondent had to prove that the Appellant was over-issued SNAP benefits during the period of February 7, 2017 through December 7, 2017, because the Appellant failed to timely report wages as required by policy. The Respondent contended that the evidence demonstrated that the Appellant had been employed at [REDACTED] since December 2016 and that the Appellant failed to report her employment on her January 19, 2017 SNAP application or on her May 29, 2017 6-month SNAP contact form.

The Respondent's case record and December 27, 2017 case comment reflected a beginning date of the Appellant's [REDACTED] employment that conflicted with Respondent Wage Data and Data Exchange records. The Appellant denied reporting to the Respondent worker in December 2017 that she had been employed for "almost a year". Evidence provided by the Appellant verified that she began employment at [REDACTED] on July 5, 2017.

The Respondent could not provide an explanation for a May 11, 2017 pay stub verification reflected in the Appellant's case record. This Hearing Officer finds that case records made by Respondent worker, Leslie Keyser, were unreliable due to errors reflected in the record and the Respondent's inability to provide explanation of income verification used to determine the Appellant's SNAP eligibility. The Respondent testified that dates present on the Benefit Recovery Referral and Establish Claim records were incorrect and should have reflected an over-issuance period of July 2017 through December 2017; however, the notice

advising the Appellant of the repayment claim reflected a SNAP over-issuance period of February 2017 through July 2017. Due to the prevalence of errors, the Respondent's evidence was given little weight in the decision of this Hearing Officer.

The 6-month SNAP contact form required the Appellant to report any earnings over \$100. At the time of her completion of the contact form, the Appellant had earned \$48 during the second quarter of 2017; however, as \$48 is below \$100, the Appellant was not required to report the income on her contact form. The Respondent testified that because income used to determine eligibility is anticipated, the Appellant should have reported on her 6-month contact form that she had attended an interview and that she expected to begin receiving income from [REDACTED] employment. No evidence was entered to corroborate that the Appellant had knowledge of pending employment at [REDACTED] at the time she completed her 6-month contact form.

The Appellant testified that she did not report her employment or income increase to the Respondent after beginning employment at [REDACTED] because her monthly gross income never exceeded \$1,287, as outlined in the June 1, 2017 notice. The Respondent argued that the Appellant was required to report any employment or increase in income; however, the Respondent's argument is not supported by policy. As the Appellant was a limited reporter, she was only required to report changes in her employment and income at her review or when her income exceeded 130% of the FPL for a one-person AG. Paystubs were not provided to demonstrate actual monthly income for the Appellant during the alleged period of over-issuance; therefore, this Hearing Officer could not determine if there was a specific month in which the Appellant's income exceeded \$1,287 as outlined in the June 1, 2017 notice or 130% of the FPL for a one-person AG. As quarterly wage data was provided, this Hearing Officer was able to determine that the Appellant's averaged gross monthly wages did not exceed the \$1,287 limit outlined in the June 1, 2017 notice or 130% of the FPL.

The Appellant was not employed at the time of her application or 6-month contact form and was only required to report changes in income at the time of her review or when her gross monthly income exceeded the limit established in her June 1, 2017 notice or 130% of the FPL. The Respondent did not prove by a preponderance of evidence that the Appellant failed to timely report wages or that an over-issuance of SNAP benefits had occurred; therefore, the Respondent's basis for implementing a repayment claim was not established.

CONCLUSIONS OF LAW

- 1) Policy provides that a repayment claim may be initiated for over-issuance of SNAP benefits when the client fails to timely report changes that would affect benefit eligibility.
- 2) The Appellant was required to report changes related to her SNAP benefit eligibility and benefit amount at the time of application, redetermination or when her gross monthly income exceeded \$1,287 or 130% of the Federal Poverty Level (FPL) for a one-person Assistance Group (AG).
- 3) On July 5, 2017, the Appellant began employment at [REDACTED] after completion of her January 2017 SNAP application and 6-month contact form.
- 4) The Appellant's gross monthly income did not exceed \$1,287 or 130% of the FPL for a one-person AG.
- 5) The Appellant timely reported her [REDACTED] employment on her December 2017 SNAP review form as required by policy.

- 6) The Respondent did not prove by a preponderance of evidence that the Appellant was over-issued SNAP benefits during the period of February 7, 2017 through December 7, 2017 due to a client error by failure to report wages or salaries.
- 7) The Respondent incorrectly established a repayment claim against the Appellant for over-issuance of SNAP benefits during the period of February 7, 2017 through December 7, 2017.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Department's decision to establish a repayment claim against the Appellant for over-issuance of SNAP benefits during the period of February 7, 2017 through December 7, 2017.

ENTERED this 5th day of August 2018.

Tara B. Thompson
State Hearing Officer