



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

**Bill J. Crouch
Cabinet Secretary**

**Board of Review
State Capitol Complex
Building 6, Room 817-B
Charleston, West Virginia 25305
Telephone: (304) 558-0955 Fax: (304) 558-1992**

**Jolynn Marra
Interim Inspector General**

November 30, 2018



RE: [REDACTED] v. WV DHHR
ACTION NO.: 18-BOR-2510

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matters.

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 may take if you disagree with the decision reached in this matter.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: April Stuckey, Department Representative

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

████████████████████,

Appellant,

v.

Action No.: 18-BOR-2510

**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 November 14, 2018, on an appeal filed October 2, 2018.

The matter before the Hearing Officer arises from the Respondent's September 25, 2018 decision to establish a SNAP repayment claim.

At the hearing, the Respondent appeared by April Stuckey. 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: February 12, 2018 |
| D-2 | West Virginia Income Maintenance Manual (WVIMM)
Chapter 11 (excerpt) |
| D-3 | WVIMM
Chapter 1 (excerpt) |
| D-4 | Code of Federal Regulations
7 CFR §273.18 (excerpt) |

- D-5 SNAP application documents signed by the Appellant
Date of electronic signature: August 9, 2016
- D-6 Employment verification letter from [REDACTED]
Date of letter: February 6, 2018
- D-7 SNAP review documents signed by the Appellant
Date signed: January 27, 2017
- D-8 Medicaid review documents signed by the Appellant
Date signed: May 19, 2017
- D-9 SNAP review documents signed by the Appellant
Date signed: July 27, 2017
- D-10 SNAP review documents signed by the Appellant
Date signed: January 25, 2018
- D-11 Employment verification letter from [REDACTED] (undated)
- D-12 Copy of decision in Appellant's hearing
Board of Review Action No.: 18-BOR-1881
Date of decision: July 30, 2018
- D-13 SNAP Claim Determination forms and supporting documentation

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 Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant was a recipient of SNAP benefits.
- 2) The Respondent established a SNAP repayment claim against the Appellant.
- 3) The Respondent calculated a SNAP repayment amount in the Appellant's case in the amount of \$3,466 between the months of September 2016 and February 2018 and classified this amount as a "client error" claim based on unreported earned income. (Exhibit D-13)
- 4) The Appellant reported no income from employment on five applications or review documents for SNAP and related programs between August 9, 2016 and January 25, 2018. (Exhibits D-5, D-7, D-8, D-9 and D-10)
- 5) The Appellant started employment with [REDACTED] on August 8, 2016. (Exhibit D-6)

- 6) The Appellant started employment with [REDACTED] on August 21, 2017. (Exhibit D-13)

APPLICABLE POLICY

The WV Income Maintenance Manual (WVIMM), at §11.2, reads “When an assistance group (AG) has been issued more Supplemental Nutrition Assistance Program (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 §11.2.3.A, the WVIMM policy for SNAP claims indicates that UPV claims are established when “an unintentional error made by the client resulted in the overissuance.”

At §1.2.4, the WVIMM outlines the client responsibility during the application and review process as follows, “The client’s responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about his eligibility.”

At §10.4.2, the WVIMM maintains the client’s reporting requirements at application and review while allowing limited reporting requirements for SNAP recipients within the certification period. This policy reads, “All SNAP assistance groups (AGs) **must report changes** related to eligibility and benefit amount **at application and redetermination**. SNAP AGs are subject to limited reporting requirements, and the reporting requirements in this section apply to recipient AGs only.” (emphasis added)

DISCUSSION

The Appellant requested a fair hearing based on the decision of the Respondent to establish a “client error” SNAP repayment claim. The Respondent must prove by a preponderance of the evidence that it correctly established this claim.

The Appellant did not present a dispute of the claim calculation. The Appellant contended that she was not required to report her income during this period and therefore received the correct amount of SNAP benefits. The Appellant’s argument is based on misunderstood SNAP policy. While policy allows some SNAP recipients relaxed, or “limited reporting” requirements once they have established eligibility and are within the certification period, all SNAP assistance groups are required to report changes at application and reviews.

The Respondent presented five separate application or review documents from the Appellant during the claim period, and on each document the Appellant did not report employment income that she was required to report. When the Appellant was asked about the Respondent’s documentation (Exhibit D-6) showing her hire date (August 8, 2016) preceding the date of the

first SNAP application (Exhibit D-5) on which this employment information was omitted, the Appellant claimed she did not know she was hired when she submitted the SNAP application on August 9, 2016. The employment verification is given more weight because the Appellant's testimony on this point was unconvincing. Additional employment verification included with the Respondent's repayment calculation documentation (Exhibit D-13) revealed a second employer not reported by the Appellant and verified the Appellant's unreported income from both sources throughout the claim period.

The Respondent clearly showed that it correctly determined a SNAP overissuance in the Appellant's case that was caused by an unintentional error by the Appellant. On this basis, the Respondent was correct to establish a "client error" SNAP repayment claim against the Appellant for the months from September 2016 to February 2018 in the amount of \$3,466.

CONCLUSION OF LAW

Because the Appellant received more SNAP benefits than she was entitled to receive because of an unintentional error on her part in income reporting "at application and redetermination," the Respondent must establish a "client error" SNAP repayment claim reflecting the excess SNAP benefits.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to establish a "client error" SNAP repayment claim against the Appellant in the amount of \$3,466 for the months from September 2016 to February 2018.

ENTERED this ____ Day of November 2018.

Todd Thornton
State Hearing Officer