

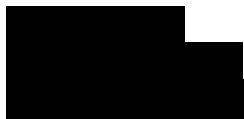


STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
203 East Third Avenue
Williamson, WV 25661

Bill J. Crouch
Cabinet Secretary

M. Katherine Lawson
Inspector General

November 28, 2018



RE: [REDACTED] v. WV DHHR
ACTION NO.: 18-BOR-2660

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 may 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: Brian Shreve, Repayment Investigator

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

██████████,

Appellant,

v.

Action Number: 18-BOR-2660

**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 20, 2018, on an appeal filed October 24, 2018.

The matter before the Hearing Officer arises from the October 19, 2018 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 Brian Shreve. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Screen Print from WV DHHR's public assistance case management network, RAPIDS, CMCC or Case Comments, dated August 27 - 30, 2018
- D-2 Screen Print from RAPIDS, EFAD or SNAP Benefit Allotment Determination for March through September 2018
- D-3 WV Income Maintenance Manual (WV IMM), Chapter 23, §23.12
- D-4 Screen Print from RAPIDS, AQIE or Individual Eligibility History
- D-5 Screen Print from RAPIDS, AFMD or Medicare History for January and August 2018
- D-6 Form ES-FS-5, Food Stamp (now SNAP) Claim Determination, dated October 16, 2018
- D-7 WV IMM, Chapter 4, §4.4.2.B.6
- D-8 WV IMM, Chapter 11, §11.2

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) In August 2018, the Appellant completed a review of her eligibility for the Qualified Medicare Beneficiary (QMB) Medicaid program, which pays a Medicare recipient's monthly premium. The case worker who processed this review determined the Appellant received an income deduction on her SNAP benefit monthly allotment calculations because her case was coded in such a way that it appeared she paid this premium amount herself via deduction from her monthly Social Security benefits.
- 2) The worker determined the Appellant was overpaid SNAP benefits because she should not have received the income deduction. He referred the matter to the Respondent's representative, a Repayments Investigator for the WV DHHR.
- 3) The Respondent's representative determined the Appellant was overpaid SNAP benefits from April through September 2018 in the amount of \$45 per month, or \$270 in total (Exhibit D-6).
- 4) On October 17, 2018, the Respondent sent the Appellant a letter informing her that it was imposing a repayment obligation in the amount of \$270 (Exhibit D-9) against her receipt of SNAP benefits.
- 5) The Appellant requested a fair hearing to protest the Respondent's establishment of the repayment obligation.

APPLICABLE POLICY

The WV Income Maintenance Manual (WV IMM), Chapter 11, §11.2 reads as follows:

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 [assistance group or] AG and the SNAP allotment the AG was entitled to receive.

The WV IMM, Chapter 11, §11.2.3.A reads as follows in part:

A UPV claim may be established when:

- An error by the [WV DHHR] resulted in the overissuance;
- An unintentional error made by the client resulted in the overissuance;
- The client's benefits are continued pending a Fair Hearing decision and the subsequent decision upholds the DHHR's action;
- It is determined by court action or [Administrative Disqualification Hearing] the client did not commit an IPV; the claim is pursued as a UPV;
- The AG received SNAP solely because of Categorical Eligibility, and it is subsequently determined ineligible for WV WORKS and/or Supplemental Security Income (SSI) at the time it received it;
- The DHHR issued duplicate benefits and the overissued amount was not returned;
- The DHHR continued issuance beyond the certification period without completing a redetermination.

The WV IMM, Chapter 4, §4.4.2.B.6 reads as follows in part:

Medical expenses in excess of \$35 must be allowed as a medical deduction for AG members who are elderly . . . or disabled . . . Once the medical expenses of all such AG members have been totaled, the amount of the total in excess of \$35 is used as a medical deduction.

Only medical costs that are not reimbursable through a third party (insurance, Medicaid, etc.) are deducted. The deduction cannot be granted until the reimbursable portion of the expense is known.

- The cost of any medical goods or services related to the use of an illegal substance under federal law, including medical marijuana, may not be deducted.
- Medical and dental care, including psychotherapy and rehabilitation services provided by a qualified health professional.
- Prescription and over-the-counter drugs, if prescribed by a qualified health professional.
- Medical supplies and equipment, if prescribed by a qualified health professional.
- Hospital or outpatient costs, nursing care, and nursing facility care.
- Health and hospitalization insurance premiums, including long-term care, vision and dental insurance.
- Medicare premiums, *except when the DHHR is paying the premium.* (Emphasis added.)
- Medical support service systems, if prescribed by a qualified health professional.
- Dentures.
- Hearing aids and batteries.
- Purchase and maintenance of prosthetic devices.

- Purchase and maintenance of a trained service animal which is required a physical or mental disability and is prescribed by a doctor.
- Prescription eyeglasses.
- Reasonable cost of transportation and lodging to obtain medical treatment or services.
- Maintaining an attendant, homemaker, home health aide, housekeeper or child care services necessary due to age, infirmity or illness.
- Any cost-sharing or spenddown expense incurred by Medicaid clients.

DISCUSSION

The Department established a SNAP repayment obligation against the Appellant due to an agency error. This error occurred because at application, a case worker incorrectly indicated that the Appellant's Medicare premium payment was deducted from her Social Security monthly benefit. As such, the Appellant's SNAP monthly issuance calculations reflected this amount as an erroneous allowable deduction.

The Respondent's representative, a repayment investigator, testified that in August 2017, a case worker entered incorrect information on a computer screen in the WV DHHR's benefit eligibility and case maintenance computer network, known as RAPIDS. The computer screen is identified by the code "AFMD" and contains information related to a Social Security Recipient's receipt of Medicare.

In August 2017, the worker coded this computer screen to reflect that the Appellant paid her Medicare monthly premium via a deduction from her monthly Social Security benefit (Exhibit D-5). In August 2018, this screen was corrected to reflect that this deduction was paid by the state of West Virginia. The error on the "AFMD" screen automatically generated a medical cost deduction in the Appellant's monthly SNAP benefit calculations (Exhibit D-2). When the error was corrected in August 2018, the monthly SNAP benefit calculations reflected that the medical cost deduction to the Appellant's monthly income monthly also ended. The Respondent's representative added that this was clearly an agency error.

The Appellant testified that from April 2017 until September 2017, the Social Security Administration deducted the Medicare premium amount, \$134, from her monthly Social Security benefit. She testified that the Social Security Administration informed her that it would repay her for these deductions, but she had not received the repayment as of the hearing date. She added that she did not understand why she should be faulted for the SNAP overpayment, when it was an agency error caused by a worker entering an incorrect coding on the "AFMD" screen.

The Respondent's representative suggested the Appellant contact her Social Security Administration representative regarding the delay in the Medicare premium refund, as the WV DHHR could not respond to this issue.

WV DHHR policy in Chapter 11, §11.2 indicates a repayment obligation must be established if an assistance group receives more SNAP benefits than it was entitled to receive, regardless of whether the overpayment is due to an error on the part of the recipient or the DHHR. As such,

the Respondent acted correctly to establish a repayment obligation against the Appellant in the amount of \$270 due to an unintentional program violation resulting from an agency error.

CONCLUSION OF LAW

The Department established by a preponderance of evidence that the Appellant received an overissuance of SNAP benefits from April through September 2018 due to an agency error. The WV Income Maintenance manual, in Chapter 11, §11.2, requires the establishment of SNAP repayment claims whenever there has been an excessive issuance of SNAP benefits. As such, the Department was correct to establish a SNAP repayment claim against the Appellant in the amount of \$270.

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 \$270.

ENTERED this 28th Day of November 2018.

Stephen M. Baisden
State Hearing Officer