



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

**Bill J. Crouch
Cabinet Secretary**

**Board of Review
PO Box 1247
433 Mid Atlantic Parkway
Martinsburg, West Virginia 25402**

**M. Katherine Lawson
Inspector General**

March 15, 2018



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2762

Dear [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,

Lori Woodward
State Hearing Officer
Member, State Board of Review

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

cc: Christine Saunders, IFM, [REDACTED] Co. DHHR

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

██████████,

Appellant

v.

Action Number: 17-BOR-2762

**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 February 22, 2018, on an appeal filed October 31, 2017*.

*This hearing was originally scheduled set for November 29, 2017. The Appellant failed to show subsequently leading to an Order of Abandonment being entered. On January 23, 2018, all correspondence mailed to the Appellant was returned as undeliverable. Another address was found for the Appellant and an Order Vacating Abandonment Order was entered and a new hearing date was set for February 8, 2018. The Appellant did show for the hearing, however, stated she had not gotten the evidence packet from the Respondent's representative. As the Appellant requested a continuance in order to receive the evidence packet, the hearing was scheduled to February 22, 2018.

The matter before the Hearing Officer arises from the October 23, 2017 decision by the Respondent to establish a repayment of over-issued Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Christina Saunders, Repayment Investigator with Investigations and Fraud Management (IFM). Appearing as witness for the Respondent was Tammie Drumheller, Front-End Fraud Unit (FEFU) with IFM. The Appellant appeared *pro se*. All witnesses were sworn, and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Benefit Recovery Referral (BVRF) #2000245772; SNAP Claim Determination and SNAP Claim Calculation Worksheets; Screen prints of Food Stamp Allotment Determination (EFAD) for Appellant's case in RAPIDS; Screen prints of SNAP Issuance History – Disbursements from Appellant's case in RAPIDS
- D-2 Screen print of Case Comments from the Appellant's eRAPIDS case from February 6, 2017 to August 17, 2017
- D-3 Front-End Fraud Unit Investigative Findings; witness statements; Employment Data for [REDACTED] from [REDACTED]; [REDACTED] Payroll Summary from January 1, 2017 to May 9, 2017
- D-4 July 13, 2017 Fair Hearing Decision entered by State Hearing Officer, Natasha Jemerison
- D-5 West Virginia Department of Health and Human Resources Supplemental Nutrition Assistance Program (SNAP) Application, signed and dated March 9, 2017
- D-6 West Virginia Department of Health and Human Resources Supplemental Nutrition Assistance Program (SNAP) Application, signed and dated June 7, 2016
- D-7 West Virginia Income Maintenance Manual, Chapter 11, §20.2
- D-8 West Virginia Income Maintenance Manual, Chapter 11, §20.2.b

Appellant's Exhibits:

None

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) On February 22, 2017, the Respondent received a change form from the Appellant indicating that her husband had left the household. (Exhibit D-2)
- 3) Because the Appellant did not complete a SNAP review in a timely manner, her SNAP benefits closed at the end of February 2017. On March 9, 2017, she reapplied for SNAP benefits, reporting herself and her two children in the household. SNAP benefits were approved. (Exhibit D-5)
- 4) On May 4, 2017, the FEFU unit found that the Appellant's husband was still in the household with earned income which should have been included in calculation of the Appellant's SNAP benefits. (Exhibit D-3)

- 5) The Appellant's SNAP benefits closed at the end of May 2017 because the household was over the income limit for eligibility. (Exhibit D-2)
- 6) The Appellant requested a fair hearing on the issue of including her husband in her household. (Exhibit D-2)
- 7) On July 6, 2017 a fair hearing was conducted. Per the July 13, 2017 Decision of the State Hearing Officer, it was determined that the Respondent was correct to include the Appellant's husband, [REDACTED], and his earned income, in the Appellant's Assistance Group (AG), which resulted in closure of SNAP benefits for income ineligibility. (Exhibit D-4)
- 8) The Appellant's husband began receiving earned income January 1, 2017, and continued to receive earned income through the repayment period. (Exhibit D-3)
- 9) A Notification of SNAP over-issuance due to unintentional client error was sent to the Appellant on October 23, 2017, explaining that a repayment claim in the amount of \$1,158 had been established by the Respondent.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (IMM) §1.2.4, states that 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.

IMM §10.4.2, requires that all SNAP assistance groups (AGs) must report changes related to eligibility and benefit amount at application and redetermination.

IMM §10.4.2.A, explains that once approved, all AGs must report when the total gross earned and unearned income of the AG and all other individuals who reside with the AG exceeds the original AG's gross income limit.

IMM §11.2, states that when an 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. The claim is the difference between the SNAP entitlement of the AG and the SNAP allotment the AG was entitled to receive.

IMM §11.2.3.A, states there are two types of UPVs—client errors and agency errors. A UPV claim may be established when an error by the Department of Health and Human Resources (DHHR) resulted in the over-issuance and when an unintentional error made by the client resulted in the over-issuance.

IMM §11.2.7 directs that the Hearings Officer only rules on the type and amount of the claim.

West Virginia Common Chapters, Chapter 700, §710.26.A, instructs that pursuant to W.Va. Code § 9-2-13, proceedings for review shall be instituted by filing a petition, in either the circuit court of Kanawha County, West Virginia, or in the circuit court of the county in which the petitioner or any of the petitioners resides or does business, within 30 days after the date upon which the Appellant received notice of the final order or decision of the Board of Review.

DISCUSSION

The Appellant was receiving SNAP benefits which closed at the end of February 2017 because she did not complete a review in a timely manner. She reapplied for SNAP benefits on March 9, 2017, reporting herself and her two children in her household. SNAP benefits were approved. In May 2017, the FEFU unit determined that the Appellant's husband resided with the Appellant, and that he had begun earning income in December. When the Appellant's husband's income was included in the SNAP calculations, the Appellant's household was over the income limit for SNAP eligibility, and her benefits were closed. The Appellant requested a fair hearing, which was held on July 6, 2017. On July 13, 2017, the State Hearing Officer found that the Respondent was correct to include the Appellant's husband and his income in determining that SNAP ineligibility thereby closing her SNAP benefits.

For this SNAP repayment hearing, the Appellant did not contest the amount of her husband's income which was used in the calculation of the over-issuance. Instead, she maintained that her husband was not in the household and, therefore, his income should not have been counted to cause the over-issuance. As that issue has already been heard and adjudicated on July 13, 2017, and she did not contest the amount of her husband's income used, the only issue that remains to be considered presently is the type of repayment claim. (See, IMM §11.2.7)

Because the type of unintentional program violation was not due to an error by the agency, the Respondent's decision to categorize the repayment claim as an unintentional client error from March 2017 to May 2017 in the amount of \$1,158 is correct.

CONCLUSIONS OF LAW

1. Policy requires when an 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. There are two types of UPVs—client errors and agency errors.
2. The repayment claim is the difference between the SNAP entitlement of the AG and the SNAP allotment the AG was entitled to receive.
3. Because the Appellant failed to report her husband and his income in her household on her March 9, 2017 SNAP application, it was determined to be an UPV claim due to client error.
4. The Appellant's AG was over income for SNAP eligibility; therefore, the SNAP over-issuance from March 2017 to May 2017 of \$1,158 must be repaid.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's proposal to establish an unintentional client error SNAP repayment claim in the amount of \$1,158.

ENTERED this 28th day of February 2018

Lori Woodward, State Hearing Officer