



**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-2952

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-2952**

**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 January 31, 2018, on an appeal filed December 8, 2017.

The matter before the Hearing Officer arises from the November 29, 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 with Investigations and Fraud Management. The Appellant appeared *pro se*. Appearing as witness for the Appellant was his wife, ██████████. All witnesses were sworn, and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Benefit Recovery Referral dated May 12, 2017
- D-2 SNAP Claim Determination and SNAP Claim Calculation Worksheets
- D-3 SNAP Issuance History – Disbursement, June 27, 2016 to April 8, 2017
- D-4 Screen print of Case Comments from the Appellant's eRAPIDS case from October 19, 2015 to May 11, 2017
- D-5 Department of Health and Human Resources State of West Virginia Combined Application and Review Form for Financial, Medical, and Supplemental Nutrition Assistance Program, signed and dated January 28, 2016
- D-6 Supplemental Nutrition Assistance Program (SNAP) – 6 or 12-month contact form (PRC2), signed and dated October 29, 2016
- D-7 Notice of SNAP eligibility dated June 28, 2016
- D-8 Notice of change in SNAP benefits dated December 12, 2016

- D-9 Electronic Benefit Transaction (EBT) Administration System screen print of Appellant's SNAP benefit balance as of October 13, 2017
- D-10 West Virginia Income Maintenance Manual, Chapter 11, §11.2
- D-11 West Virginia Income Maintenance Manual, Chapter 11, §11.2.3.A

**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) In January 2016, the Appellant completed a Temporary Assistance for Needy Families (TANF) and Medical review. (Exhibit D-5)
- 2) Several months later in June 2016, although the Appellant did not make an application for SNAP benefits, they were approved for the Appellant's household due to an error by the agency.
- 3) The Respondent sent notification of SNAP benefit approval to the Appellant on June 28, 2016. The notification included the unearned income amount used in the SNAP determination as \$1171.34, and instructions if the total household gross income increases to more than \$4430 per month, the Appellant must report it to the local office. (Exhibit D-7)
- 4) On October 29, 2016, the Appellant returned a SNAP 6 or 12-month contact, reporting no change in the \$1171.34 total of the household's gross unearned income. (Exhibit D-6)
- 5) On December 12, 2016, notification of SNAP benefit reduction was sent to the Appellant. This notification instructed that if the total household gross income increases to more than \$3938 per month, it must be reported. (Exhibit D-8)
- 6) The Appellant continued to receive and use SNAP benefits until April 2017, when the error was discovered by the Respondent. (Exhibits D-3 and D-9)
- 7) The Appellant receives retirement income of \$4000 per month which was not reported.
- 8) The Appellant's household has been over income for SNAP eligibility since June 2016. (Exhibit D-2)
- 9) The Appellant did not contest that his Assistance Group (AG) was over income for SNAP eligibility.

- 10) A repayment referral was made to the Respondent's Investigations and Fraud Management (IFM) unit. (Exhibit D-1)
- 11) IFM determined that the Appellant was over-issued SNAP benefits from June 2016 to April 2017 in the amount of \$7556. (Exhibit D-2)
- 12) Because the Appellant continued to use the SNAP benefits and failed to report the retirement income, IFM determined it was an Unintentional Program Violation (UPV) due to Client Error (CE). (Exhibit D-2)

### **APPLICABLE POLICY**

WV 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 §10.4.2.C, requires that 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.

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.

### **DISCUSSION**

The Appellant was receiving WV WORKS cash assistance benefits as a caretaker relative for his grandchildren. Because of a worker error, SNAP benefits were approved for the Appellant's household in June 2016. The Appellant continued to receive SNAP benefits until April 2017, when the error was discovered by the Respondent. Because the Appellant was receiving \$4000 per month in retirement income which was not reported, the Appellant's AG was over income for

SNAP eligibility. A repayment claim was determined by the Respondent for a total of \$7556 over-issued SNAP benefits from June 2016 to April 2017.

The Appellant did not contest that fact that his AG was over income for SNAP eligibility. He did, however, question why he should have to repay the over-issued SNAP benefits. He averred that his household never applied for the benefits, and that it was the Respondent's worker who made the error in issuing the benefits. The Appellant stated that because they were unaware of the SNAP policies and procedures and that the grandchild previously received SNAP benefits when they were in the custody of their mother, they assumed that their grandchildren were entitled to the SNAP benefits.

The Respondent's representative, Christina Saunders, explained that although the original issuance of the SNAP benefits was due to agency error, the Appellant had several opportunities to notify the local office of this mistake. Ms. Saunders pointed out that the Appellant was notified in June 2016 of the SNAP approval, which showed the amount of \$1171.34 used in the SNAP determination, and included instructions that if the total household income increased to more than \$4430 per month, it must be reported to the office. Additionally, on October 29, 2016, the Appellant submitted a SNAP 6 or 12-month contact form which did not report the Appellant's retirement income. There was another notification of SNAP benefits sent on December 12, 2016, which again showed the \$1171.34 used in the SNAP determination and included the income reporting requirement. Ms. Saunders concluded that due to these reasons, she classified the repayment claim as client error.

The hearing officer only rules on the type and amount of the claim. Although it was clearly agency error which precipitated the over-issuance of SNAP benefits, the Appellant had several opportunities to report his retirement income and did not. Therefore, the Respondent's decision to categorize the repayment claim as a client error UPV from June 2016 to April 2017 in the amount of \$7556 is affirmed.

### **CONCLUSION 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 his retirement income and continued to receive SNAP benefits in error, this UPV is considered a client error.
4. The Appellant's AG was over income for SNAP eligibility; therefore, the SNAP over-issuance from June 2016 to April 2017 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 \$7556.

**ENTERED this 6<sup>th</sup> day of February 2018**

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**Lori Woodward, State Hearing Officer**