



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

January 19, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-2962

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: April Stuckey, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-2962

**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 convened on January 11, 2018, on an appeal filed December 11, 2017.

The matter before the Hearing Officer arises from the August 28, 2017 decision by the Respondent to seek repayment of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by April Stuckey, Repayment Investigator, WVDHHR. Appearing as a witness for the Respondent was Tammie Drumheller, Front-End Fraud Investigator, WVDHHR. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, the Appellant's neighbor. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Benefit Recovery Referral
- D-2 West Virginia Income Maintenance Manual Chapter 20.2
- D-3 Code of Federal Regulations Section 273.18
- D-4 Front-End Fraud Unit Investigative Findings
- D-5 Rights and Responsibilities signed by ██████████
- D-6 Case Comments
- D-7 Food Stamp Claim Determination form, Benefit Recovery Referral, Case Comments, SNAP Issuance History, Food Stamp Allotment Determination, Non-Financial Eligibility Determination and Employee Wage Data

Appellant's Exhibits:

A-1 Information concerning [REDACTED]

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 Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, benefits.
- 2) The Respondent's Front-End Fraud Unit investigated the Appellant's living arrangement and concluded that [REDACTED] - father of the Appellant's child - resided in her household, although he had not previously been reported in the home.
- 3) The Appellant signed a statement during the investigation, indicating that she resided at her [REDACTED] residence in [REDACTED] WV with her two sons, her niece, and [REDACTED]. The statement indicates that Mr. [REDACTED] had been residing in the home since September 2016 (D-4).
- 4) Because Mr. [REDACTED] is the father of a child in the Appellant's household, he was required to be included in the SNAP Assistance Group.
- 5) Mr. [REDACTED] was employed during the time period in question, and his income was not counted toward the SNAP benefits (D-7).
- 6) Failure to report the information resulted in a \$628 SNAP overpayment for the period of October 2016 through January 2017 (D-7).
- 7) The Respondent has established a SNAP claim based on an Unintentional Program Violation.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 20.2 (D-2) states that when an Assistance Group 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 entitlement the Assistance Group received and the entitlement the Assistance Group should have received.

Chapter 9.1.A of the Manual states that natural or adopted children and stepchildren who are under age 22 and who live with a parent must be included in the same SNAP Assistance Group as the parent.

Chapter 1.2.E of the Manual states that it is the client's responsibility to provide information about his/her circumstances so the worker is able to make a correct decision about his/her eligibility.

DISCUSSION

Policy states that when an Assistance Group 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 entitlement the Assistance Group received and the entitlement the Assistance Group should have received.

The Appellant testified during the hearing that she did not write or read the statement submitted by the Respondent's investigator before she signed it, and that Mr. [REDACTED] was not residing in her home at the time of the investigation. The Appellant provided Exhibit A-1 to demonstrate that Mr. [REDACTED] was on probation at the time of the investigation and would not have been permitted to reside in the housing complex. She also indicated that Mr. [REDACTED] had been using her mailing address for insurance purposes for her son. The Appellant's neighbor testified that she was present during the investigator's visit, and that the Appellant told the investigator that Mr. [REDACTED] did not reside in the home. She indicated that the investigator wrote the statement and the Appellant signed it. The Respondent's investigator purported that the Appellant had provided the statement, reporting that Mr. [REDACTED] was in the home. As the Appellant signed a statement indicating that Mr. [REDACTED] was in the home at the time of the Respondent's investigation, the proposal to seek repayment of SNAP benefits is affirmed.

CONCLUSION OF LAW

The Respondent acted correctly in seeking the repayment of over-issued SNAP benefits since parents of a child under age 22 must be included in the same SNAP Assistance Group if they reside in the same household.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Respondent's proposal to seek repayment of SNAP benefits.

ENTERED this 19th Day of January 2018.

**Pamela L. Hinzman
State Hearing Officer**

