



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
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Charleston, West Virginia 25313
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**Jolynn Marra
Interim Inspector General**

May 23, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NOS.: 19-BOR-1612 & 19-BOR-1613

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,

Danielle C. Jarrett
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29
cc: April Stuckey, Repayment Investigator

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

██████████,

Appellant,

v.

**BOR Action Numbers: 19-BOR-1612 &
19-BOR-1613**

**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 May 22, 2019, on an appeal filed April 22, 2019.

The matter before the Hearing Officer arises from the March 28, 2019 decision by the Respondent to include the Appellant on the Supplemental Nutrition Assistance Program (SNAP) and West Virginia WORKS (WV WORKS) repayment claims as a liable debtor.

At the hearing, the Respondent appeared by April Stuckey, Repayment Investigator. Appearing as a witness for the Respondent was Tammie Drumheller, Front-End Fraud Unit Investigator. 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, dated September 11, 2018
- D-2 West Virginia Income Maintenance Manual (WV IMM) §§ 11.2 through 11.2.1
- D-3 WV IMM § 11.3
- D-4 Code of Federal Regulations (CFR) § 273.18
- D-5 SNAP and Medicaid/WVCHIP Review, dated January 22, 2018
- D-6 Rights & Responsibilities form, dated January 22, 2018
- D-7 Department of Health and Human Resources (DHHR) SNAP Change Report form, dated July 10, 2018
- D-8 Investigations and Fraud Management (IFM) Statement form, dated September 25, 2018

- D-9 Landlord Verification form, dated May 1, 2019
- D-10 IFM Statement form, dated May 1, 2019
- D-11 Request for WV WORKS Case Assistance Application, dated July 10, 2018
- D-12 (OSCAR) computer system screenshot/printouts of Narrative and Parent Address
- D-13 SNAP Claim Determination attached with RAPIDS computer screenshot printouts of Case Members History, Case Comments, and SNAP Issuance History- Disbursement, dated May 27, 2019
- D-14 Cash Assistance Claim Determination attached with RAPIDS computer system screenshot printouts of Case Members History, Case Comments, WV WORKS Issuance History- Disbursement, and WV WORKS Grant Determination/ DCA Gross Test, dated March 27, 2019

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 shares a common child with [REDACTED] (Mr. [REDACTED]).
- 2) The Appellant resided with Mr. [REDACTED] and their common child including a time period from June 2018 through October 31, 2018.
- 3) Mr. [REDACTED] was a recipient of SNAP benefits for an Assistance Group (AG) of two (himself and common child) which included the time period of August 1, 2018 through October 31, 2018. (Exhibits D-1 and D-13)
- 4) Mr. [REDACTED] was a recipient of WV WORKS benefits for an AG of two (himself and common child) which included the time period of July 10, 2018 through September 30, 2018. (Exhibit D-14)
- 5) Mr. [REDACTED] failed to report that the Appellant was residing in his household when he applied for WV WORKS on July 10, 2018. (Exhibit D-11)
- 6) The Appellant's household received an over-issuance of SNAP benefits in the amount of \$491 for the months of August 1, 2019 through October 31, 2019. (Exhibits D-1 and D-14)
- 7) The Appellant's household received WV WORKS benefit they were not entitled to receive in the amount of \$893 for the months of July 10, 2018 through September 30, 2018. (Exhibits D-1 and D-13)
- 8) The Appellant is defined by policy as a liable debtor.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) § 1.2.4, states the client's responsibility is to provide complete and accurate information about his or her circumstances so that the worker can make a correct determination about his or her eligibility.

WV IMM § 3.2.1.A.4 reads that natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as the parent. (emphasis added)

WV IMM § 10.4.2.B.1 reads that action must be taken for all AGs when information is received from a source that is considered verified upon receipt. Investigations and Fraud Management (IFM) finding of an investigation is verified upon receipt. (emphasis added)

WV IMM § 11.2 reads 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 of AG was entitled to receive.

WV IMM § 11.2.5.A, reads there are two types of UPVs – client error (CE) and agency errors (AE). A CE claim may be established when it is determined that the over-issuance was a result of an unintentional error made by the client. An AE claim may be established when it is determined that the over-issuance was a result of an error made by the Department.

WV IMM § 11.2.5 Collecting the Claim provides in part:

Collection action is initiated against the AG that received the over issuance. When the AG composition changes, collection is pursued against any and all AGs that include a liable debtor.

The following persons are equally liable for the total amount of the overpayment and are liable debtors:

- Adult or emancipated minors in the AG...

DISCUSSION

The Appellant requested a fair hearing due to the Department's decision to establish a SNAP repayment claim for the time period of August 1, 2018 through October 31, 2018, in the amount of \$491, and a WV WORKS repayment claim for the time period of July 10, 2018 through September 30, 2018, in the amount of \$893, which included the Appellant as a liable debtor.

The Appellant began residing with Mr. [REDACTED] in June 2018. The Appellant is the biological parent of Mr. [REDACTED] child. Their common child was born on July 2, 2018. At the time their child was born, policy required the Appellant, Mr. [REDACTED] and the common child to be included in the same AG of both SNAP and WV WORKS.

When Mr. [REDACTED] applied for WV WORKS benefits on July 10, 2018, he failed to report that the Appellant was residing in his household. During the subject time period, the Appellant testified that she received Supplemental Security Income (SSI) and their common child started receiving SSI in September 2018.

Policy explains that when an AG has been issued more SNAP and WV WORKS than it was entitled, corrective action must be taken by establishing a repayment claim. All adult members of the SNAP and WV WORKS AG are equally liable for the repayment amount and are defined as liable debtors. The Appellant meets the definition of a liable debtor.

The Appellant testified that she was aware that Mr. [REDACTED] was receiving WV WORKS and SNAP benefits for her child. The Appellant testified that she and her child were admitted to the hospital in [REDACTED] West Virginia in July 2018. The Appellant testified Mr. [REDACTED] needed money for traveling to and from the hospital in [REDACTED]. The Appellant testified that they were short on money because her child's SSI did not begin until September 2018. The Appellant testified that the error was unintentional and that she would repay the over-issued benefits, but that she did not want the fraud charge "hanging over her head." Because the Appellant was residing with Mr. [REDACTED] when he received benefits to which he was not entitled to receive, the repayment claims were established as Unintentional Program Violations.

The Appellant did not contest the reason for repayment for SNAP and WV WORKS benefits or the amount of over-issued benefits. Policy states that both parents and their income must be included in the WV WORKS AG in order to be eligible for benefits. Because the Appellant was an adult member in Mr. [REDACTED] AG, the Respondent proved by a preponderance of evidence that the Appellant is defined as a liable debtor and responsible for SNAP and WV WORKS repayment claims.

CONCLUSIONS OF LAW

- 1) Per policy, when an AG receives more SNAP and WV WORKS benefits than it is entitled to receive a repayment claim is established.
- 2) Because the Appellant resided with Mr. [REDACTED] she was required to be included in the AG.
- 3) Mr. [REDACTED] AG received more SNAP benefits than they were entitled to receive from August 1, 2017 through October 31, 2018.
- 4) Mr. [REDACTED] AG received WV WORKS benefits that they were not entitled to receive from July 10, 2018 through September 30, 2018.
- 5) Because the Appellant and Mr. [REDACTED] resided together with their common child from July 10, 2018 through September 30, 2018, she is defined as a liable debtor and is equally responsible for the WV WORKS repayment claim in the amount of \$893.

- 6) Because the Appellant and Mr. [REDACTED] resided together with their common child from August 1, 2018 through October 31, 2018, she is defined as a liable debtor and is equally responsible for the SNAP over-issuance in the amount of \$491.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to establish repayment obligation from the Appellant for WV WORKS in the amount of \$893 from July 10, 2018 through September 30, 2018 and for SNAP in the amount of \$491 from August 1, 2018 through October 31, 2018, as a liable debtor.

ENTERED this _____ day of May 2019.

Danielle C. Jarrett
State Hearing Officer