



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313
304-746-2360
Fax – 304-558-0851**

**Jolynn Marra
Interim Inspector General**

June 14, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:19-BOR-1688

Dear Mr. [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: Christina Saunders, Repayment Investigator

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

██████████,

Appellant,

v.

Action Number: 19-BOR-1688

**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 30, 2019, on an appeal filed May 6, 2019.

The matter before the Hearing Officer arises from the May 1, 2019 decision by the Respondent to establish a Supplemental Nutrition Assistance Program (SNAP) repayment claim against the Appellant.

At the hearing, the Respondent appeared by Christina Saunders, Repayment Investigator, Investigations and Fraud Management (IFM). The Appellant appeared *pro se*. The Appellant's witness appeared by ██████████, his wife. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Benefit Recovery Referral, dated February 15, 2019
- D-2 West Virginia Income Maintenance Manual (WV IMM) § 1.2.4
- D-3 Food Stamp Allotment Determination Sheets, dated February 20, 2019; SNAP Claim Determination Sheet, dated April 30, 2019; SNAP Claim Calculation Sheets; SNAP Issuance History-Disbursements; Case Household Information; Individual Demographics; Employee Wage Data; Shelter Costs; and eRAPIDS computer system screenshot printout of Case Comments
- D-4 SNAP and Medicaid/WVCHIP Review Form, Rent Receipt, Letter of Correspondence, and Utility Statement, dated December 26, 2017
- D-5 WV IMM § 4.4.2.C
- D-6 SNAP- 6 or 12 month Contact Form, dated May 29, 2018
- D-7 SNAP and Medicaid/WV CHIP Review Form, dated November 15, 2018

D-8 WV IMM §§ 11.2 through 11.2.1
D-9 Code of Federal Regulations (CFR) § 273.18

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's household is a recipient of SNAP benefits.
- 2) On May 1, 2019, notice was mailed to the Appellant which indicated that due to an agency error, his household received an over-issuance of SNAP benefits in the amount of \$847 for the months of February 1, 2018 through March 31, 2019.
- 3) On February 15, 2019, the Respondent received a repayment referral alleging that the Appellant was receiving a deduction for shelter cost, which was assigned for investigation. (Exhibit D-1)
- 4) As a result of the investigation, the Respondent established a SNAP repayment claim against the Appellant in the amount of \$847 for the time period of February 1, 2018 through March 31, 2019, based on an agency error.
- 5) On December 26, 2017, the Appellant submitted a SNAP and Medicaid/WVCHIP redetermination form reporting that Housing and Urban Development (HUD) pays his shelter cost and he receives a HUD Utility Allowance in the amount of \$189 per month. (Exhibit D-4)
- 6) Attached to the December 26, 2017 redetermination form, the Appellant's wife reported by written correspondence that their household was responsible for paying the landlord first month's rent and deposit, totaling \$1,412. (Exhibit D-4)
- 7) On the redetermination forms submitted on May 21, 2018, November 15, 2018, and December 3, 2018, the Appellant failed to report HUD's payment of the AG's shelter cost. (Exhibits D-3, D-6, and D-7)
- 8) On February 15, 2019, the Appellant submitted verification of his household's shelter/utility cost with his Low-Income Energy Assistance Program (LIEAP) application. At that time, the Respondent removed the shelter cost deduction. (Exhibit D-3)

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 § 4.3.1 reads that when a rent or utility supplement through HUD is paid directly to the client, it is excluded as income for SNAP benefits.

WV IMM § 4.4.2.B.2 explains that a standard deduction is applied to the total non-excluded income counted for the Assistance Group (AG). The amount of standard deduction for a AG size of six (6) is \$234.

WV IMM § 4.4.2.C reads that rent/security or damage deposits are not shelter expenses. A rent subsidy paid directly to the client's landlord is not counted as income and the amount of the subsidy is not used as a shelter deduction.

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 § 11.2.1 directs Repayment Investigators must, if the referral is appropriate, consider the client's reporting requirements, the worker's timely action, and the advance notice period.

WV IMM § 11.2.3.A, reads that there are two types of UPVs – client error 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.

DISCUSSION

The Appellant requested a fair hearing due to the Respondent's decision to establish a SNAP repayment claim for the time period of February 1, 2018 through March 31, 2019, in the amount of \$847. This over-issuance was a result of an agency error due to incorrect shelter cost deduction. The Appellant contested the Respondent's determination.

While the Appellant did not contest the amount of repayment, he reasoned that because he paid the first month's rent and security deposit from December 2017 through June 2018, he should be allowed the shelter cost deduction. However, the Appellant and his witness testified that HUD paid their rent beginning January 2018. The payments they made were not considered monthly rent payments, but instead were payments to a debt owed to the landlord for the first month's rent and security deposit. Per policy, rent/security deposits are not allowable shelter cost deductions in the calculation of monthly SNAP benefits. Unfortunately, the Department worker entered a \$200 shelter cost deduction in the Appellant's case in error.

The Appellant further argued that because the Respondent caused the error, he should not be responsible for repayment of the over-issuance. The Appellant indicated that he never intentionally misrepresented his household expenses.

The Appellant signed the Rights and Responsibilities listed on his SNAP and Medicaid/WVCHIP redetermination forms that he was responsible for repayment of over-issued SNAP benefits whether due to his own error or that of the agency.

The Respondent has to demonstrate by a preponderance of evidence that it correctly followed policy when establishing a repayment claim against the Appellant. The West Virginia Income Maintenance Manual explains that when an AG has been issued more SNAP than it was entitled to receive, corrective action must be taken by establishing a repayment claim. Once the Respondent determined the Appellant received a shelter cost deduction that was included in his SNAP benefit calculations, the Respondent acted in accordance with policy and established a benefit recovery referral for SNAP benefits over-issued to the Appellant from February 1, 2018 through March 31, 2019, in the amount of \$847.

CONCLUSIONS OF LAW

- 1) Per policy, when an AG receives more SNAP benefits than it is entitled to receive, a repayment claim must be established.
- 2) The Appellant's AG received more SNAP benefits than they were entitled to receive from February 1, 2018 through March 31, 2019.
- 3) Policy indicates that in order to be eligible for a shelter cost deduction, the Appellant must be responsible for paying his shelter cost.
- 4) Because the Department incorrectly added the Appellant's rent/security deposit to his shelter cost deduction, an over-issuance resulted in the amount of \$847.
- 5) Because all SNAP over-issuances must be repaid, the Respondent correctly determined a repayment claim against the Appellant.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to establish a SNAP repayment claim against the Appellant in the amount of \$847.

ENTERED this _____ day of June 2019.

Danielle C. Jarrett
State Hearing Officer