



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

Bill J. Crouch
Cabinet Secretary

Jolynn Marra
Interim Inspector General

June 30, 2020



RE: [REDACTED] v. WVDHHR
ACTION NO.: 20-BOR-1751

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: Brian Shreve, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 20-BOR-1751

**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 June 29, 2020, on an appeal filed June 11, 2020.

The matter before the Hearing Officer arises from the March 17, 2020 decision by the Respondent to seek repayment of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Brian Shreve, Repayment Investigator, WVDHHR. 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 information
- D-2 SNAP application dated October 17, 2019
- D-3 Pay stubs for ██████████
- D-4 Case Comments
- D-5 Food Stamp Claim Determination and supporting documentation
- D-6 West Virginia Income Maintenance Manual Chapter 11.2
- D-7 Notice of Decision dated March 17, 2020

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 is a recipient of Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, benefits.
- 2) On January 22, 2020, the Respondent's Investigations and Fraud Management Unit received a Benefit Recovery Referral (D-1), stating that a Department worker had entered the Appellant's husband's income from [REDACTED] (D-3) into the computer system at the time of the Appellant's October 2019 SNAP application (D-2); however, the income had never been counted toward the Appellant's SNAP allotment due to an agency error.
- 3) The Respondent's failure to consider reported income in the Appellant's SNAP benefit calculation resulted in a SNAP over issuance for the period of October 2019 through February 2020 (D-5).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 11.2 (D-6) 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 (AG) should have received.

Chapter 11.2.3.A.1 of the Manual states that agency errors - including failure to take prompt action or computation errors - are considered UPVs.

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. A UPV repayment claim can be established when an Assistance Group receives an incorrect SNAP allotment based on the agency's failure to act or computation errors.

The Appellant testified that she and her husband lost their jobs due to the COVID-19 pandemic, and she does not believe they should be responsible for repaying SNAP benefits because they did nothing wrong. She stated that she had properly reported the income and the agency erred.

While the Appellant did nothing to cause the over issuance of SNAP benefits, policy states that unintentional agency errors are subject to repayment.

CONCLUSIONS OF LAW

- 1) Policy states 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. A UPV repayment claim can be established when an Assistance Group receives an incorrect SNAP allotment based on the agency's failure to act or computation errors.
- 2) The Appellant correctly reported her husband's income to the Respondent at the time of her October 2019 SNAP application.
- 3) The Respondent failed to count the income in the calculation of the Appellant's SNAP allotment.
- 4) The Respondent's proposal to seek repayment of SNAP benefits is affirmed based on the commission of an agency error that resulted in overpayment.

DECISION

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

ENTERED this 30th Day of June 2020.

Pamela L. Hinzman
State Hearing Officer