



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

July 29, 2020



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 20-BOR-1801

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: Debra Carey, WVDHHR

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

██████████,

**Appellant,**

v.

**Action Number: 20-BOR-1801**

**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 July 28, 2020, on an appeal filed June 23, 2020.

The matter before the Hearing Officer arises from the June 8, 2020 decision by the Respondent to seek repayment of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Debra Carey, Repayment Investigator, WVDHHR. The Appellant was present and was represented by ██████████, Esq., Legal Aid of West Virginia. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Hearing Request Notification
- D-2 Fair Hearing Request Form
- D-3 Department's Fair Hearing Summary
- D-4 Benefit Recovery Referral
- D-5 Case Comments from Department's computer system
- D-6 Letter from ██████████ dated May 2018
- D-7 Food Stamp Claim Determination form
- D-8 Food Stamp Claim Calculation Sheet
- D-9 Food Stamp Allotment Determinations
- D-10 West Virginia Income Maintenance Manual Chapter 1.3.1.A.3
- D-11 West Virginia Income Maintenance Manual Chapters 11.1 and 11.2

- D-12 Notification of Supplemental Nutrition Assistance Program Over Issuance dated June 8, 2020
- D-13 SNAP redeterminations dated July 16, 2018 and December 17, 2018, and Medicaid redetermination dated January 13, 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) The Appellant completed SNAP case redeterminations with the Respondent in July 2018 and December 2018 (D-13).
- 3) The SNAP redetermination forms included rights and responsibilities statements, and the Appellant signed the forms to indicate that she understood the statements.
- 4) The final statement on the rights and responsibilities form indicates that repayment can be sought when an individual receives incorrect benefits due to an Agency error.
- 5) On January 8, 2020, the Respondent's Investigations and Fraud Management Unit received a Benefit Recovery Referral (D-4), indicating that the Appellant had received incorrect deductions for Medicare premiums.
- 6) The Respondent's allowance of the incorrect deduction caused a SNAP benefit over issuance for the period of March 2019 through February 2020 (D-7, D-8 and D-9).

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 11.2 (D-11) 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 states that there are two types of UPVs. UPVs can be established when an error by the Department of Health and Human Resources (DHHR) resulted in the over issuance.

## **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. UPVs can be established when an error by the Department resulted in the over issuance.

The Appellant testified that she submitted all information requested by the Respondent regarding her SNAP case, and does not believe that she should be required to repay benefits because the over issuance was not her fault. She stated that she receives a fixed income and would have no money left to repay SNAP benefits after she pays her monthly bills. The Appellant indicated that she was aware of the requirement to repay SNAP benefits based on an Agency error, but testified that she has had at least four different case workers during the time she has received SNAP benefits and no one explained information to her.

While the SNAP over issuance occurred through no fault of the Appellant, policy calls for the repayment of SNAP benefits when the Agency errs in a benefit calculation.

## **CONCLUSIONS OF LAW**

- 1) 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.
- 2) A UPV can be established when an error by the Department results in a SNAP over issuance.
- 3) The Respondent allowed an incorrect SNAP deduction which resulted in an over issuance of the Appellant's SNAP benefits.
- 4) The repayment proposal is in accordance with SNAP policy and is affirmed.

## **DECISION**

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

**ENTERED this 29th Day of July 2020.**

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**Pamela L. Hinzman  
State Hearing Officer**