



**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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Jolynn Marra
Interim Inspector
General

December 8, 2020



RE: [REDACTED] v. WVDHHR
ACTION NO.: 20-BOR-2162

Dear Ms. Green:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson, MLS
State Hearing Officer
State Board of Review

Enclosure: Appellant's Recourse
Form IG-BR-29

cc: Wanda Morgan, Investigations and Fraud Management

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

██████████,

Appellant,

v.

ACTION NO.: 20-BOR-2162

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on October 21, 2020 and reconvened on November 18, 2020 on an appeal filed with the Board of Review on September 18, 2020.

The matter before the Hearing Officer arises from the Respondent's August 25, 2020 action to implement a Supplemental Nutrition Assistance Program repayment claim against the Appellant.

At the hearing, the Respondent appeared by Wanda Morgan, Investigations and Fraud Management. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 DHHR Letter, dated October 9, 2020
- D-2 Administrative Disqualification Hearing Summary
- D-3 eRAPIDS Case Summary, printed September 15, 2020
- D-4 eRAPIDS Case Benefit Summary, printed September 15, 2020
- D-5 DHHR Medicaid Review Form, received March 16, 2018
- D-6 eRAPIDS Case Comments, printed October 9, 2020
- D-7 DHHR Medicaid Review Form, received June 21, 2018
- D-8 eRAPIDS Case Comments, printed October 9, 2020
- D-9 eRAPIDS Case Summary, printed October 9, 2020
- D-10 DHHR Medicare Buy-in Program Application, signed June 29, 2018
- D-11 DHHR Application for West Virginia School Clothing Allowance, submitted August 8, 2018

- D-12 eRAPIDS Case Comments, printed October 9, 2020
- D-13 DHHR SNAP Review Form, received December 4, 2018
- D-14 DHHR SNAP Contact Form, received June 3, 2019
- D-15 eRAPIDS Case Comments, printed October 9, 2020
- D-16 [REDACTED] Direct Deposit, dated October 26 and November 9, 2018
- D-17 DHHR Medicaid Review Form, received July 1, 2019
- D-18 eRAPIDS Case Comments, printed October 9, 2020
- D-19 [REDACTED] Direct Deposit, dated June 7 and June 21, 2019
- D-20 eRAPIDS Case Comments, printed September 15, 2020
- D-21 DHHR SNAP Contact Form, received November 27, 2019
- D-22 [REDACTED] pay documentation, received December 18, 2019
- D-23 DHHR Case Comments, printed October 9, 2020
- D-24 DHHR Benefit Recovery Referral, dated April 8, 2020
- D-25 Investigation Findings, completed on August 24, 2020; Benefit Recovery Referral, dated August 11, 2020; Investigation Findings, completed August 24, 2020
- D-26 DHHR Notice, dated August 25, 2020
- D-27 West Virginia Income Maintenance Manual (WVIMM) §S 1.2.4, 4.2, Chapter 4 Sources of Income Chart 1, 10.4

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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant is a recipient of SNAP and Medicaid benefits for a four-person Assistance Group (AG), which included the Appellant and her three minor daughters —three-year-old [REDACTED], three-year-old [REDACTED], and six-year-old [REDACTED] (Exhibit D-3 through D-10, D-12 through D-15, D-17, D-18, D-20 through D-23).
- 2) The AG received SNAP benefits from February 14, 2018 through May 11, 2020 (Exhibits D-4 and D-6).
- 3) On August 25, 2020, the Respondent issued two notices advising the Appellant that SNAP benefit repayment claims totaling \$7,318 was implemented against the Appellant due to SNAP over-issuance from May 12, 2018 through February 29, 2020 because of a client error related to unearned income (Exhibit D-26).
- 4) The Appellant routinely reported changes to her employment and earned income (Exhibits D-13, D-14, D-16, D-17, and D-21).

- 5) On May 1, 2018, effective by court order, the Appellant was awarded combined monthly child support of \$852.05 for children [REDACTED], [REDACTED], and [REDACTED] (Exhibit D-9).
- 6) The Appellant received \$505.76 in child support for February and March 2018, \$399 in child support for April 2018, and \$852.05 in child support from May 2018 through December 2019 (Exhibit D-23).
- 7) The Appellant did not include child support income on her March 16 or June 21, 2018 Medicaid reviews, June 29, 2018 Medicare Buy-in Program application, August 8, 2018 School Clothing Allowance application, or December 4, 2018 SNAP review form (Exhibits D-5, D-7, D-10 through D-13).
- 8) On March 26, June 21, June 29, and December 4, 2018 and on June 3 and November 27, 2019, the Appellant submitted signed acknowledgements that all information provided was true and correct (Exhibits D-5, D-7, D-10, D-13, D-14, and D-21).
- 9) On March 26, 2018, the Appellant was approved for SNAP benefits for a four-person AG based on the Respondent's calculation of the AG's income—which included \$887 monthly Social Security Disability Insurance (SSDI) and \$195 monthly Social Security Disability Children (SSDC) (Exhibit D-6).
- 10) On December 4, 2018, the Appellant submitted a SNAP review acknowledging that she understood that the AG may be required to repay any benefits for which she was not eligible because of unintentional errors made by the Appellant or by the Respondent (Exhibit D-13).
- 11) On June 3 and November 27, 2019, the Appellant submitted a SNAP 6 or 12-month contact form (Interim Contact Form) for a review of eligibility for herself and her three minor daughters (Exhibits D-14 and D-21).
- 12) On the June 3, 2019 Interim Contact Form, the Appellant reported a change in monthly child support payments from \$0 to \$775.20, reported no changes to her monthly gross earned income, and reported a decrease in monthly gross unearned income from \$1,116 to \$775.20 (Exhibit D-14).
- 13) On June 4, 2019, the Respondent approved the Appellant's SNAP benefits based on the household's gross monthly unearned income of \$912 and gross monthly earned income of \$465 (Exhibit D-15).
- 14) The Respondent did not consider the Appellant's reported change in monthly child support income amount when making the June 4, 2019 determination regarding the AG's SNAP benefit eligibility (Exhibit D-15).
- 15) On December 11, 2019, the Respondent's worker verified the AG's unearned income, recorded the AG's child support income amount, and noted that the AG had received child support since February 2018 (Exhibit D-23).

16) On August 24, 2020, the Respondent's Investigation Findings established a SNAP repayment claim of \$4,502 for SNAP over-issuance from May 2018 through December 2018 and a SNAP repayment claim of \$2,816 for SNAP over-issuance from January 2019 through February 2020 (Exhibit D-25).

17) The Appellant's AG was over issued SNAP benefits due to combined client error and agency error from May 2018 through February 2020.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 provides in part:

The client's responsibility is to provide complete and accurate information about her circumstances so that the Worker is able to make a correct determination about her eligibility.

WVIMM § 10.2.1 provides in part:

The need for case maintenance originates from sources including the client, information from other offices or bureaus within the DHHR, and data system matches and case maintenance functions.

When reported information results in a change in benefits and additional or clarifying information is needed, the Worker must first request the information by using the DFA-6 or verification checklist. If the client does not provide the information within the time frame specified by the Worker, the appropriate action is taken after advanced notice.

WVIMM § 10.4.2 provides in part:

All SNAP Assistance Groups (AGs) must report changes related to eligibility and benefit amount at application and redetermination.

WVIMM § 10.4.2.B.3 provides in part:

The Bureau for Child Support Enforcement is a third-party source of information requiring Worker follow-up on all unclear information reported during the certification period when the information reported presents significantly conflicting information from that used by the DHHR at last certification.

WVIMM § 10.4.2.B.4 provides in part:

Unclear information is any information received from any source with which the Worker cannot readily determine the effect of the reported information on the household's benefit. The Worker must pursue clarification and required verification of unclear information related to these reported changes. Additional information requested from the client is due 10 calendar days from the date of the DFA-6 or verification checklist.

WVIMM § 10.4.2.C provides in part:

When the client does not report in a timely manner and the change could have been made earlier, a claim for benefit repayment may be established.

WVIMM § 10.4.3.B provides in part:

When the reported change results in a decrease in benefits, the change is effective the following month, if there is time to issue advance notice. If not, the change is effective two months after it occurs. No claim is established unless the client failed to report in a timely manner, and this is the only reason the change could not be made within 13 days for the advance notice period.

WVIMM §§ 11.2-11.2.1 provides in part:

When an AG has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing an Unintentional Program Violation (UPV). The claim is the difference between the SNAP entitlement of the AG and the SNAP allotment the AG was entitled to receive In determining if a referral is appropriate, the Worker must consider the client's reporting requirements, the Worker's timely action, and the advance notice period.

WVIMM §§ 11.2.3.A provides in part:

There are two types of UPVs —client errors and agency errors. A UPV claim may be established when an error is made by the DHHR that resulted in benefit over-issuance or an unintentional error is made by the client resulted in the benefit over-issuance.

A client error UPV is only established retroactively for the six-year period preceding the month of discovery. An agency error is only established retroactively for the one-year period preceding the date of the discovery.

DISCUSSION

The Respondent initiated a SNAP repayment against the Appellant for SNAP benefits over issued to the AG from May 12, 2018 through February 29, 2020. The Respondent contended that the Appellant made a client error by failing to accurately report the amount of unearned child support income the household was receiving. The Appellant argued that she did not intentionally withhold information about the AG's income. During the hearing, the Appellant testified that she historically completed her review forms quickly, did not "read the fine print," and believed that the Respondent had access to her child support information. The Appellant contended that it was unfair that a repayment claim should be implemented because the Respondent had access to the information and failed to add the AG's child support amount to her case record. The Respondent's calculations of the amount of the repayment claim were not contested. During the hearing, the Appellant did not contest the amount of earned income used by the Respondent when deciding the Appellant's SNAP eligibility, the benefit allotment amount, and the repayment amount. The Appellant did not contest the Respondent's evidence reflecting the amount and dates of child support received.

The Respondent had to prove by a preponderance of evidence that the Appellant was over issued SNAP benefits by failing to accurately report the amount of unearned child support income. The Respondent's evidence had to demonstrate that the Appellant was over issued SNAP benefits between May 12, 2018 and February 29, 2020.

As a recipient of Medicaid and SNAP benefits, the Appellant was required to report changes affecting her benefit eligibility within 10 days of the change. The policy provides that when an AG member reports a change for any program of assistance in the eligibility system, the Respondent is required to conduct case maintenance and take action on changes that affect benefit eligibility. Because the Appellant began receiving child support income in February 2018 and failed to timely report the onset of any child support income until June 3, 2019, the Respondent was not able to make a correct determination about the Appellant's SNAP eligibility and benefit allotment.

The policy provides that the Appellant had a responsibility to report true and correct information about her circumstances so that the worker could make a correct decision regarding the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefit eligibility. The evidence verified that the Appellant routinely attested that she was not receiving child support and that the information she provided to the Respondent was true and correct. However, the Respondent's evidence verifies that the Appellant received monthly child support income from February 2018 through January 2020.

On June 3, 2019, the Appellant submitted an Interim Contact Form that was unclear. On the Interim Contact Form, the Appellant made written notations of changes to the child support and unearned income amounts. The Respondent's Case Comments reflect that the AG was approved based on \$912 monthly gross unearned social security income and \$465 earned income. No evidence was entered to verify that the Respondent acted on the Appellant's reported change of child support amount. The policy provides that changes reported on the Interim Contact Form are considered reported changes that require action from the Respondent. Because the Appellant's June 3, 2019 reported change would have resulted in a decrease in her benefits, the change should have been effective July 2019. The policy provides that the Respondent may implement a UPV claim arising

from the agency error that occurred when the Respondent failed to take action following the Appellant's June 3, 2019 reported change to the AG's monthly child support amount. The Respondent discovered a UPV in the client's case on December 11, 2019. The policy provides that the Respondent may seek repayment retroactively for one year preceding the date of the discovery. Although the type of UPV varies across the repayment claim period, the preponderance of evidence verifies that a repayment claim should be implemented regardless of UPV type.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, when the client does not timely report a change and the change could have been made earlier, a claim for benefit repayment may be established.
- 2) The preponderance of evidence proves that the Appellant committed an unintentional program violation (UPV) by making a client error when she failed to report the onset of child support income.
- 3) The Appellant was over issued SNAP benefits due to a client error from May 2018 through June 2019.
- 4) The preponderance of evidence verified that the Respondent committed an agency error which resulted in an over-issuance of the AG's SNAP benefits, beginning July 2019.
- 5) The Appellant was over issued SNAP benefits due to an agency error from July 2019 through February 2020.
- 6) The preponderance of evidence verified that the Respondent acted correctly to initiate a SNAP repayment claim against the Appellant to recoup SNAP benefits over issued to the AG from May 2018 through February 2020.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's August 24, 2020 action to implement a SNAP repayment claim against the Appellant for over issued SNAP benefits received from May 2018 through February 2020.

ENTERED this 8th day of December 2020.

Tara B. Thompson, MLS
State Hearing Officer