



**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**

November 25, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 20-BOR-2349

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: Wanda Morgan, WVDHHR

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

[REDACTED],

**Appellant,**

**v.**

**Action Number: 20-BOR-2349**

**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 [REDACTED]. 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 originally convened on November 4, 2020, on an appeal filed October 8, 2020. The hearing was reconvened on November 19, 2020 after allowing time for additional income clarification.

The matter before the Hearing Officer arises from the July 21, 2020 decision by the Respondent to seek repayment of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Wanda Morgan, 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 Letter to Appellant dated October 23, 2020
- D-2 Hearing Summary
- D-3 Case Summary
- D-4 Case Benefit Summary
- D-5 Case Comments dated December 12, 2019
- D-6 Low-Income Energy Assistance Program (LIEAP) application submitted on December 9, 2018
- D-7 Data Exchange-SSA Benefit Details
- D-8 Case Comments dated March 7, 2019
- D-9 SNAP and Medicaid/WV CHIP redetermination form submitted on February 19, 2019
- D-10 SNAP Budget information

- D-11 Benefit Recovery Referral, Investigation Findings, Establish Claim form, Overpayment Sheet
- D-12 Notice of Decision dated July 31, 2020
- D-13 West Virginia Income Maintenance Manual Chapters 1.2.4, 4, 4.2 and 10.4
- D-14 Letter to Appellant dated November 12, 2020
- D-15 LIEAP application submitted on November 20, 2017
- D-16 Case Comments

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 received a letter from the Respondent on July 31, 2020 (D-12), informing her that she received an over issuance of SNAP benefits for the period of April through December 2019 due to a client error.
- 3) The Appellant began receiving Social Security Retirement, Survivors and Disability Insurance (RSDI) income of \$1,169 after her ex-husband died in January 2019 (D-7).
- 4) The Appellant, who also receives her own Social Security benefits, failed to report the RSDI income on a SNAP and Medicaid/WV CHIP redetermination form submitted on February 19, 2019 (D-9). The review form only listed the Appellant's self-reported monthly income of \$186 in Social Security benefits and \$688 in Social Security Disability income for a total of \$874.
- 5) The Appellant received an over issuance of SNAP benefits because of failure to report the RSDI benefits (D-11).
- 6) The Respondent established a SNAP claim (client error) against the Appellant for the period of April through December 2019.
- 7) During the hearing on November 4, 2020, the Appellant disputed receiving the \$186 in Social Security benefits that she reported on her February 2019 SNAP redetermination form. Therefore, the hearing was rescheduled for November 19, 2020 to allow the Respondent time to secure income verification from the Social Security Administration.
- 8) The hearing reconvened on November 19, 2020, at which time the Respondent's witness testified that she was unable to reach the Social Security Administration to obtain verification (D-14). The Appellant did not dispute receiving the \$186 during the reconvened hearing.

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 11.2 states that when an Assistance Group (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 entitlement the Assistance Group received and the entitlement the 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 attempted to report the RSDI income to the Department, left voice mail messages and received no response. She stated that did not purposely deceive the Department, but indicated that she has medical issues.

As policy calls for the repayment of SNAP benefits for both intentional and unintentional client errors, the Respondent's decision to seek repayment is correct. However, the error should be considered an agency error as Social Security income verification is made available to the Respondent via data exchange matches.

## **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 program violation can be established when an agency error results in a SNAP over issuance.
- 3) The Appellant did not report the receipt of RSDI benefits on her SNAP redetermination form submitted in February 2019; however, the Respondent should have been alerted to the change in income via computer data match from the Social Security Administration.
- 4) The error resulted in an over issuance of SNAP benefits.
- 5) The proposed repayment is in accordance with SNAP policy.

- 6) The Respondent shall verify all sources of household income for the over issuance period - and the amount of the claim should be calculated accordingly based on that information - before collection is pursued.

### **DECISION**

It is the decision of the State Hearing Officer to UPHOLD the Respondent's proposal to seek repayment of SNAP benefits and to REMAND the issue for recalculation of the claim once all income is properly verified.

**ENTERED this 25th Day of November 2020.**

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**Pamela L. Hinzman  
State Hearing Officer**