



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
Raleigh County District
407 Neville Street
Beckley, WV 25801**

**Jolynn Marra
Interim Inspector General**

November 17, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-2421

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Birdena Porter, [REDACTED] DHHR

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

██████████,

Appellant,

v.

Action Number: 20-BOR-2421

**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 November 12, 2020, on an appeal filed October 22, 2020.

The matter before the Hearing Officer arises from the October 17, 2020 decision by the Respondent to establish a repayment claim of Supplemental Nutrition Assistance Program (SNAP) benefits for the Appellant.

At the hearing, the Respondent appeared by Birdena Porter, Repayment Investigator. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual §3.2.1.E
- D-2 West Virginia Income Maintenance Manual §10.4.2.A
- D-3 West Virginia Income Maintenance Manual Chapter 4 Appendix A
- D-4 West Virginia Income Maintenance Manual §4.3
- D-5 Child Support Disbursement Screen Prints and Case Narrative
- D-6 Virginia Employment Compensation Claim Detail Results
- D-7 West Virginia Income Maintenance Manual §11.2.3.A.2
- D-8 Hearing Request Notification Form
- D-9 Notice of SNAP Overissuance dated September 30, 2020
- D-10 Department's Summary

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 was a recipient of SNAP benefits for an assistance group of two.
- 2) The Appellant's adult son, [REDACTED], was excluded from the SNAP assistance group as an ineligible college student.
- 3) The Appellant began receiving \$378 weekly in Unemployment Compensation in February 2020 (Exhibit D-6).
- 4) In April 2020, the Appellant's Unemployment Compensation increased to \$978 weekly, the increase the result of additional funding provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act enacted on March 27, 2020.
- 5) The Respondent contended that the onset of the additional \$600 a week in Unemployment Compensation for the Appellant exceeded the allowable limit for her assistance group to receive SNAP benefits.
- 6) The Appellant received \$4,890 in Unemployment Compensation in June 2020, \$2,934 in July 2020 and \$2,868 in August 2020 (Exhibit D-6).
- 7) The income limit to receive SNAP benefits for a 2-person assistance group is \$1,832 monthly.
- 8) The Respondent established a repayment claim of \$1,065 in SNAP benefits that were issued to the Appellant in June, July and August 2020 for which she was not eligible to receive (Exhibit D-9).
- 9) The Appellant contested the repayment claim and contended that her son, [REDACTED], should have been included in her SNAP assistance group during the repayment claim period.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §11.2 states when an assistance group (AG) has been issued more Supplemental Nutrition Assistance Program (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 the AG was entitled to receive.

There are two types of UPVs—client errors and agency errors. A UPV claim may be established when:

- An error by the Department of Health and Human Resources (DHHR) resulted in the overissuance
- An unintentional error made by the client resulted in the overissuance

When the client fails to provide accurate or complete information, the first month of the overissuance is the month the incorrect, incomplete, or unreported information would have affected the benefit level considering notice and reporting requirements.

West Virginia Income Maintenance Manual §10.4.2.A states when SNAP benefits are approved with a gross non-excluded income at or below 130% of the Federal Poverty Level (FPL), an AG must report when the total gross non-excluded earned and unearned income of the Income Group (IG) exceeds 130% of the FPL for the number of individuals in the original AG.

West Virginia Income Maintenance Manual §4.3.92 states that Unemployment Compensation Income counts as unearned income for SNAP, including the \$600 Federal Pandemic Unemployment Compensation payments.

If a SNAP AG is approved with income at or below 130% of the FPL reports non-excluded income in excess of 130% of the FPL, the AG's eligibility must be reevaluated. If the AG remains eligible for SNAP, the AG is then required to report when the total gross non-excluded earned and unearned income of the Income Group exceeds 200% of the FPL for the number of individuals in the original AG.

West Virginia Income Maintenance Manual §4.4.3.A states when no AG member is elderly or disabled, the gross income must be equal to, or less than, the gross income limit in Appendix A (130% FPL). If so, the AG qualifies for the disregards and deductions. If the gross income exceeds the amount in Appendix A, the AG is ineligible.

West Virginia Income Maintenance Manual Chapter 4 Appendix A (effective October 2019 – September 2020) lists 130% FPL for a 2-person AG as \$1,832 and for a 3-person AG as \$2,311.

West Virginia Income Maintenance Manual §3.2.1.E states a student is an individual who is enrolled at least half time in a recognized school, training program or institute of higher education. A student enrolled at an institute of higher education is ineligible to participate in SNAP unless the individual qualifies for one of the exemptions described below.

An institution of higher education is defined as a business, technical, trade, or vocational school that normally requires a high school diploma or its equivalent for enrollment in the curriculum, or a college or university that offers degree programs whether or not a high school diploma is required for a particular curriculum. For this definition, a college includes a junior, community, two-year, or four-year college.

A student meets an exemption if he is:

- Under age 18;
- Age 50 or over;
- He is physically or mentally unfit for employment.
- Participating in an on-the-job training program. This does not include the practical experience requirements that may be part of some courses of study, i.e., student teaching, internships, etc.; o A person is considered to be participating in on-the-job training, and thus not considered a student, during the period of time that he is being trained by the employer. He is considered a student, only during the period of time that he is attending classes.
- Employed at least 20 hours per week or 80 hours a month and is paid for the employment. This average must use a 30-day lookback period to determine if the student meets the 80-hour requirement.
- Participating in a state or federally financed College Work Study (CWS) program during the regular school year;
 - o Participation means that the student has been approved for CWS during the school term and anticipates actually working during that time.
 - o To qualify for this exemption, the student must be approved for CWS at the time of application.
 - o The exemption begins with the month in which the school term begins or the month CWS is approved, whichever is later. Once begun, the exemption continues until the end of the month in which the school term ends, or it becomes known that the student refused an assignment. The exemption does not continue between school terms when there are breaks of a full month or longer, unless the student is participating in CWS during the break.
- Included in a WV WORKS benefit;
- Assigned to or placed in an institution of higher education through one of the following:
 - o Workforce Innovation and Opportunity Act (WIOA)
 - o Section 236 of the Trade Act of 1974
 - o An employment and training program for low-income households that is operated by a state or local government when one or more of the program's components is at least equivalent to SNAP E&T
 - o The SNAP E&T
- Responsible for the care of a child under the age of six;
- Responsible for the care of an AG member who has reached the age of 6 but is under age 12 and adequate child care is not available to enable the student to attend class and satisfy the 20 hour work requirement or participate in a state or federally financed CWS program during the regular school year; or

- Is a single parent (natural, adoptive, or stepparent), regardless of marital status, and is responsible for an AG member under age 12, regardless of the availability of adequate childcare, and is enrolled full-time, as defined by the institution.
 - This applies in situations where only one natural, adoptive, or stepparent, regardless of marital status, is in the same AG with the child.
 - If no natural, adoptive, or stepparent is in the AG with the child, another full-time student in the same AG as the child may qualify for this exemption, if he has parental control over the child.

A student is considered to be enrolled the day he is scheduled to begin classes at an institution of higher education. Enrollment is defined as continuing during normal periods of class attendance, vacation or recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal term (excluding summer school).

DISCUSSION

Pursuant to policy, when an assistance group has received SNAP benefits that it was not entitled to receive, corrective action is taken by establishing a repayment claim. Repayment claims are established regardless of whether the overpayment was a result of agency error or client error.

The Respondent established a repayment claim for SNAP benefits issued to the Appellant in June, July and August 2020 in error. The Appellant began receiving an additional \$600 weekly in Unemployment Compensation benefits in April 2020, which exceeded the monthly income limit of \$1,832 for a 2-person assistance group to qualify for SNAP benefits. The Appellant was required by policy to report when her household income exceeded the SNAP income limit of 130% FPL, and had the increase in income been reported timely, the Appellant's SNAP benefits would have terminated effective May 31, 2020. The Appellant failed to report the onset of the additional income and was therefore not eligible to receive SNAP benefits for June, July and August 2020.

The Appellant contended that her son, [REDACTED], should have been included in her SNAP assistance group during his summer break from college. The Appellant also contended that the additional Unemployment Compensation provided through the CARES Act should not count against her SNAP eligibility.

The Appellant's son is a full-time college student who does not meet the student eligibility exemptions found in policy. Although the Appellant argued that [REDACTED] spring semester ended in April 2020 and he was not enrolled in summer school during the repayment claim period, policy defines enrollment as continuing during normal periods of class attendance, vacation or recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal term. [REDACTED] continued to attend college full-time in the fall semester of 2020 and continued to meet the definition of an ineligible student.

Policy does not exclude the \$600 Federal Pandemic Unemployment Compensation payments provided through the CARES Act. The Respondent correctly determined that the additional \$600

weekly Unemployment Compensation the Appellant received resulted in her household exceeding the allowable limit to receive SNAP benefits.

Whereas the Appellant's income exceeded the allowable limit to receive SNAP benefits in June, July and August 2020, the Respondent correctly established a repayment claim to recoup benefits that were issued in error.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, when an assistance group has received SNAP benefits that it was not entitled to receive, corrective action is taken by establishing a repayment claim.
- 2) The Appellant's total countable income exceeded the allowable limit to receive SNAP benefits in June, July and August 2020.
- 3) The Respondent's action to establish a repayment claim of SNAP benefits issued in June, July and August 2020 is affirmed.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to establish a repayment claim of \$1,065 in Supplemental Nutrition Assistance Program benefits issued to the Appellant for which she was not eligible to receive.

ENTERED this 17th day of November 2020.

Kristi Logan
Certified State Hearing Officer