



**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**

January 14, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.:19-BOR-2833

Dear Mr. [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
State Hearing Officer
Member, State Board of Review

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

cc: Anisha Eye, [REDACTED] County DHHR

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

████████████████████,

Appellant,

v.

Action Number: 19-BOR-2833

**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 January 7, 2020, on an appeal filed December 10, 2019.

The matter before the Hearing Officer arises from the October 9, 2019, decision by the Respondent to establish a repayment claim of Supplemental Nutrition Assistance Program (SNAP) benefits.

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

Department's Exhibits:

- D-1 Hearing Request Notification Form
- D-2 Notice of SNAP Overpayment dated October 9, 2019
- D-3 SNAP Claim Determination Form
- D-4 SNAP Claim Calculation Sheets
- D-5 Claim Recoupment History Screen Print
- D-6 Request/Receipt for Electronic Benefit Transaction (EBT) Account Deduction (unsigned copy)
- D-7 Notice of EBT Deduction dated October 10, 2019
- D-8 EBT Deduction Screen Print
- D-9 SNAP and Medicaid Review Form received November 28, 2018
- D-10 West Virginia Income Maintenance Manual §11.2

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 submitted a SNAP eligibility review form to the Respondent on November 28, 2018 and completed a telephone interview on December 10, 2018 (Exhibit D-9).
- 2) The Appellant's caseworker calculated the Appellant's SNAP benefits based upon the Appellant's paychecks received on November 16 and November 30, 2018.
- 3) In August 2019, a supervisory review was completed on the Appellant's case and it was determined that the Appellant's SNAP benefits should have been calculated using the Appellant's November 9 and November 16, 2018 paychecks.
- 4) The Respondent determined that the Appellant was overpaid SNAP benefits from January 2019 through August 2019, and established a repayment claim of \$232 for the Appellant (Exhibits D-3 and D-4).
- 5) Eighteen dollars (\$18) was deducted from the Appellant's EBT card from the Appellant's November 2019 SNAP issuance for the repayment claim (Exhibit D-6).
- 6) On December 10, 2019, the Appellant agreed to have \$148 deducted from his EBT card for payment towards his repayment claim (Exhibit D-8).
- 7) The remaining balance of the Appellant's repayment claim is \$66.
- 8) The Appellant contested the balance of his repayment claim.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §4.4.1.B states the Worker must consider information about the client's income sources before deciding which income to use. The Worker must follow the steps below for each old income source.

- Step 1: Determine the amount of income received by all persons in the Income Group (IG) in the 30 calendar days prior to the application/redetermination date, or interview date when the interview is completed on a different day than when the application is received.

The appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of application/redetermination. However, if the interview is completed on a different day than when the date the application/redetermination is received, the 30-day look-back period could begin the day before the interview date. The income from this 30-day period is the minimum amount of income that must be considered. When, in the Worker's judgment, future income may be more reasonably anticipated by considering the income from a longer period of time, the Worker considers income for the time period he determines to be reasonable. Whether the Worker considers income from the prior 30 days, or from a longer period of time, all of the income received from that source during that time period must be considered. All pay periods during the appropriate time period must be considered and must be consecutive.

- Step 2: Determine if the income from the previous 30 days is reasonably expected to continue into the new certification period.

If it is not expected to continue, the income from this source is no longer considered for use in the new certification period.

If it is expected to continue, determine if the amount is reasonably expected to be more or less the same. If so, the income source is used for the new certification period and treated according to Section 4.4.1.D below. If it is not expected to continue at more or less the same amount, the income source is used for the new certification period and treated according to Section 4.4.1.C below.

- Step 3: Record the results of Step 2, including the amount of income, why the source is or is not being considered for the new certification period, the client's statement about continuation of the income from this source, the time period used, and, if more than the previous 30 days, the reason additional income was considered.

Once the Worker has determined all of the old sources of income to consider and the time period for which they are considered, he must then determine if any source should be considered for future income.

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.

West Virginia Income Maintenance Manual §11.2.3.A states a UPV claim may be established when an error by the Department of Health and Human Resources (DHHR) resulted in the overissuance.

For UPV agency error claims, the first month of overissuance is the month the incorrect allotment was effective.

DISCUSSION

Pursuant to policy, when an assistance group receives more SNAP benefits than it was entitled to receive, a repayment claim is established to recoup the overpayment.

The Respondent determined that the Appellant was overpaid \$232 in SNAP benefits that were issued from January through August 2019. The cause of the overpayment was a computation error of the Appellant's earned income during his December 2018 SNAP eligibility review.

The Respondent's witness testified that the Appellant's paycheck received on November 30, 2018 for \$335.40 was used in error to determine his SNAP benefits effective January 2019. The paychecks received November 9 and November 16, 2018 of \$709.80 each should have been used in determining the Appellant's SNAP allotment.

Policy stipulates that to determine an assistance group's SNAP allotment, the Worker must use all income received thirty (30) calendar days prior to the date of redetermination or the date of the interview if completed on a different date. If the income during this time period can be reasonably expected to continue and can be expected to be more or less the same, the income from the 30-day look back period is used in calculating the assistance group's SNAP allotment.

The paycheck received on November 30, 2018 in the amount of \$335.40 was not reflective of the Appellant's anticipated earnings, and the Respondent correctly determined that this paycheck should not have been used in SNAP calculations. The Respondent's decision to establish a repayment claim of the Appellant's SNAP benefits was correct.

The Appellant contended that his employment ended in June 2019 and he began receiving Unemployment Compensation. The Appellant testified that he did not report the decrease in his income, and as such, did not receive the full amount of SNAP benefits throughout the summer that he was entitled to receive. The Appellant argued that because he should have received more SNAP benefits during the months he received Unemployment Compensation, he does not owe the remaining repayment balance of \$66.

The Respondent used the Appellant's actual income from earnings and Unemployment Compensation that was received during the overpayment period in determining his repayment amount, taking into consideration the lesser amount of income that was received (Exhibit D-4). The use of actual income received, instead of using calculations from the paychecks that should have been used at his SNAP redetermination, offsets any claim by the Appellant that he was owed more SNAP benefits during the summer and should be relieved of owing the remaining \$66 repayment. The Respondent correctly determined that the Appellant is responsible for the \$66 balance of his repayment claim from January through August 2019.

CONCLUSIONS OF LAW

- 1) When an Assistance Group receives more SNAP benefits than it was entitled to receive, a repayment claim is established to recoup the overpayment.
- 2) The Respondent incorrectly calculated the Appellant's earned income during his December 2018 SNAP redetermination.
- 3) The Respondent established an agency error repayment claim for the overpaid SNAP benefits issued from January through August 2019.
- 4) The Appellant has paid \$166 towards the total \$232 repayment claim.
- 5) The Respondent correctly determined the Appellant's repayment claim of \$232, and he is therefore responsible for the remaining \$66.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to establish a repayment claim of Supplemental Nutrition Assistance Program benefits for the Appellant.

ENTERED this 14th day of January 2020.

Kristi Logan
State Hearing Officer