



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

June 17, 2021



RE: [REDACTED] v. WVDHHR  
ACTION NOS.: 21-BOR-1578 and 21-BOR-1579

Dear Mr. and Mrs. [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**

[REDACTED],

**Appellant,**

**v.**

**Action Numbers: 21-BOR-1578 and 21-BOR-1579**

**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 convened on June 16, 2021, on an appeal filed April 21, 2021.

The matter before the Hearing Officer arises from the April 13, 2021 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 Appellants appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Fair Hearing Summary
- D-2 Fair Hearing Requests and electronic mail transmission dated April 29, 2021
- D-3 Notices of repayment dated April 13, 2021
- D-4 Benefit Recovery Referral for period of November 1, 2020 through January 1, 2021
- D-5 Case Comments
- D-6 SNAP redetermination/application dated November 12, 2019
- D-7 Pay stubs coinciding with November 12, 2019 SNAP redetermination/application
- D-8 SNAP 6 or 12 Month Contact Form dated October 6, 2020
- D-9 Employee Wage Data for [REDACTED]
- D-10 Employee Wage Data for [REDACTED]
- D-11 Food Stamp Claim Determination form for period of January 2020 through October 2020, Benefit Recovery Referral for period of January 2020 through October 2020,

- Investigation Findings, Referral/Claim Comments, Establish Claim form, Overpayment Sheet, Food Stamp Claim Calculation Sheets and Food Stamp Allotment Determination
- D-12 Food Stamp Claim Determination form for period of November 2020 through January 2021, Benefit Recovery Referral, Investigation Findings, Referral/Claim Comments, Establish Claim form, Overpayment Sheet, Payment Agreement, Food Stamp Claim Calculation Sheets and Food Stamp Allotment Determination
  - D-13 Copies of Appellants' pay stubs
  - D-14 Electronic mail transmissions dated April 22, 2021
  - D-15 Packet of claim information sent to Appellant
  - D-16 SNAP Issuance History- Disbursement
  - D-17 Notice of Decision dated November 13, 2019
  - D-18 Notice of Decision dated March 26, 2020
  - D-19 West Virginia Income Maintenance Manual Chapter 1.2.4
  - D-20 West Virginia Income Maintenance Manual Chapters 10.4.2, 10.4.2.A and 10.4.2.C
  - D-21 West Virginia Income Maintenance Manual Chapters 11.2.2., 11.2.3, 11.2.3.A and 11.2.3.A.2

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 Appellants were recipients of Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, benefits.
- 2) The Appellants were sent letters on April 13, 2021 (D-3), informing them that they received over issuances of SNAP benefits for the periods of January 1, 2020 through October 31, 2020 and from November 1, 2020 through January 1, 2021 due to a client error. The over issuances partially resulted from an agency error that occurred when the Respondent failed to terminate SNAP benefits upon the Appellant's submission of an incomplete 6 or 12 Month Contact Form in October 2020.
- 3) [REDACTED] completed a SNAP application/redetermination form on November 12, 2019 (D-6).
- 4) At the time of application/redetermination, the Respondent computed the Appellants' earned income, but did not include [REDACTED] overtime hours in the income calculation because his hours were reportedly decreasing (D-5).
- 5) Mr. [REDACTED] overtime hours continued and the Appellants' income exceeded 130% of the Federal Poverty Level for a seven-person Assistance Group (\$4,227) in December 2019 based on Employee Wage Data (D-9 and D-10) for the fourth quarter of 2019.

- 6) Mrs. [REDACTED] monthly wages averaged \$1,478.22 per month and Mr. [REDACTED] monthly earnings averaged \$3,084.55 for the fourth quarter of 2019 for a total monthly average of \$4,562.77.
- 7) The Appellants failed to report that their household income had exceeded 130% of the Federal Poverty Level in December 2019 and SNAP benefits continued.
- 8) Mrs. [REDACTED] completed a SNAP 6 or 12 Month Contact form on October 6, 2020 (D-8), at which time she reported that the household's gross monthly income had not changed by more than \$100. The Appellants did not return all requested verification; however, SNAP benefits were not terminated by the Respondent.
- 9) The Appellant's household income exceeded 130% of the Federal Poverty Level (\$4,292) for a seven-person SNAP Assistance Group in October 2020, however, SNAP benefits continued.
- 10) Mrs. [REDACTED] monthly wages averaged \$1,623.12 per month and Mr. [REDACTED] earnings averaged \$5,562.74 monthly for the fourth quarter of 2020 for a total monthly average of \$7,185.86 (D-9 and D-10).
- 11) The Respondent determined that the Appellants' failure to report the increase in income resulted in a \$7,410 SNAP over issuance for the period of January 2020 through October 2020, as well as a \$3,213 SNAP over issuance for the period of November 2020 through January 2021 (D-4, D-11, D-12 and D-16).

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 11.2 (D-21) 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.

West Virginia Income Maintenance Manual Chapter 11.2.3.A states that there are two types of unintentional program violations: client errors and agency errors. An unintentional program violation may be established when an error by the Department resulted in an over issuance and when an unintentional error made by the client resulted in an over issuance.

West Virginia Income Maintenance Manual Chapter 10.4.2 (D-20) states that all SNAP Assistance Groups must report changes related to eligibility and benefit amount at application and redetermination. SNAP Assistance Groups are subject to limited reporting requirements, and the reporting requirements in this section apply to recipient Assistance Groups only. The reporting requirements for SNAP clients are only for SNAP benefits and do not affect the reporting requirements of any other program of assistance that the Assistance Group also receives.

West Virginia Income Maintenance Manual Chapter 10.4.2 (D-20) states that if an Assistance Group approved with income at or below 130% of the federal poverty level reports non-excluded income in excess of 130% of the federal poverty level, the Assistance Group's eligibility must be reevaluated.

Changes must be reported no later than the 10<sup>th</sup> calendar day of the month following the month in which the change occurs.

Limited Reporting Example 1: A two-person Assistance Group is certified in April with an income below 130% of the federal poverty level. On May 20, one of the Assistance Group members begins working full time. When the Assistance Group calculates the income received in May, it is still below 130% of the federal poverty level. In the middle of June, the client receives a raise. He receives one paycheck in June with his new rate of pay. When the Assistance Group calculates income received in June, it is still below 130% of the federal poverty level. No changes are required to be reported at this point. When the Assistance Group calculates its income in July, it exceeds 130 percent of the federal poverty level. The Assistance Group is required to report this by August 10.

## **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 client or the Department resulted in the over issuance.

The Appellants did not dispute the amount of income they received during the time period in question; however, they testified that they were informed by a Department worker during the November 2019 application/redetermination that Mr. [REDACTED] overtime would not be considered because it was not guaranteed. Therefore, they reported no subsequent changes in household income. Mr. [REDACTED] indicated that he received overtime during the 2020 COVID-19 pandemic due to a high demand for swimming pools.

The worker declined to consider overtime in the income calculation completed at the time of the November 2019 SNAP application/redetermination. Therefore, the Appellants cannot be penalized for failure to report overtime in November 2019. If the Appellants had realized that their income exceeded 130% of the federal poverty level in December 2019, they would have had until January 10, 2020 to report the change. Therefore, January 2020 cannot be considered when calculating the repayment.

The Appellants received a regular monthly SNAP allotment plus COVID-19-related emergency SNAP supplements during the over issuance time period. The Repayment Investigator testified that the supplements must also be repaid because the Appellants were ineligible for SNAP benefits during this time period.

Based on information provided during the hearing, the Respondent's proposal to seek repayment of SNAP benefits is correct. It should be noted, however, that the Appellants provided credible testimony to support that they were unaware of the requirement to report ongoing overtime benefits. While their contention is noted, an Unintentional Program Violation repayment claim has been correctly established.

### **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) An Unintentional Program Violation can be established when a client or agency error results in a SNAP over issuance.
- 3) SNAP recipients subject to limited reporting requirements must report when their gross household income exceeds 130% of the Federal Poverty Level.
- 4) The Appellants' average gross household income exceeded 130% of the Federal Poverty Level beginning in December 2019.
- 5) The income change was not reported to the Respondent by January 10, 2020 or when the Appellants completed a SNAP 6 or 12 Month Contact Form in October 2020.
- 6) As the Appellants' income exceeded 130% of the Federal Poverty Level beginning in December 2019, the Respondent's proposal to seek repayment of SNAP benefits is correct.

### **DECISION**

It is the decision of the State Hearing Officer to UPHOLD the Respondent's proposal to seek repayment of SNAP benefits based on the commission of an Unintentional Program Violation. The repayment period will be February 2020 through January 2021.

**ENTERED this 17th Day of June 2021.**

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**Pamela L. Hinzman  
State Hearing Officer**

