



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
Raleigh County DHHR
407 Neville Street
Beckley, WV 25801
Kristi.D.Logan@wv.gov**

**Jolynn Marra
Interim Inspector General**

July 7, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-1706

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: Anisha Eye, [REDACTED] County DHHR

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

████████████████████,

Appellant,

v.

Action Number: 21-BOR-1706

**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 July 6, 2021, on a timely appeal filed June 17, 2021.

The matter before the Hearing Officer arises from the May 20, 2021, decision by the Respondent to establish a repayment claim of Supplemental Nutrition Assistance Program (SNAP) benefits against the Appellant.

At the hearing, the Respondent appeared by Anisha Eye, Repayment Investigator. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, Attorney-in-Fact. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request Notification
- D-2 Notice of Overissuance dated May 20, 2021
- D-3 SNAP Issuance History-Disbursement Screen Prints
- D-4 SNAP Claim Determination Forms
- D-5 SNAP Claim Calculation Sheets
- D-6 SNAP Allotment Determination Screen Prints
- D-7 Non-Financial Eligibility Determination Screen Prints
- D-8 Notices of Decision dated February 25, 2020, July 2, 2020, July 29, 2020, August 31, 2020, November 12, 2020, January 11, 2021, and February 19, 2021
- D-9 SNAP Application dated June 26, 2019

- D-10 SNAP Renewal dated November 6, 2020
- D-11 Case Comments from February 2020 – April 2021
- D-12 West Virginia Income Maintenance Manual §3.2.1.
- D-13 West Virginia Income Maintenance Manual §11.2
- D-14 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 herself and her two (2) children.
- 2) On February 24, 2020, the Appellant reported that her parents, [REDACTED], had moved into her home, but stated they purchased and prepared meals separately from her and the children (Exhibit D-11).
- 3) The Appellant's parents were added to her case and her SNAP assistance group, effective April 1, 2020 (Exhibits D-6 and D-7).
- 4) The Appellant submitted a SNAP eligibility review form on November 6, 2020. She reported that her parents purchased and prepared meals separately from her and her children (Exhibits D-10 and D-11).
- 5) SNAP benefits were recertified for the Appellant for a five- (5) person assistance group.
- 6) The Respondent removed the Appellant's parents from her SNAP assistance group in April 2021 and SNAP benefits were terminated effective May 1, 2021 as the income was excessive for a three- (3) person assistance group (Exhibit D-11).
- 7) The Respondent established an agency error repayment claim for \$10,257 in SNAP benefits that were issued to the Appellant from April 2020 through April 2021 for which she was ineligible to receive (Exhibits D-2, D-4 and D-5).

APPLICABLE POLICY

West Virginia Income Maintenance Manual §§3.2.1.A.5 and 3.2.1.A.6 state group of individuals who live together, and who customarily purchase food and prepare meals together, is a SNAP AG. "Customarily" means purchasing food and preparing meals more than 50% of the time. states

Individuals or groups of individuals living with others, but who customarily purchase food and prepare meals separately, are an AG. “Customarily” means purchasing food and preparing meals more than 50% of the time. An occasional shared meal does not interfere with his separate AG status.

West Virginia Income Maintenance Manual §§11.2 and 11.3 state 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 an overissuance is the result of the agency’s failure to take prompt action or due to a computation error, the first month of overissuance is the month the change would have been effective had the agency acted promptly or the first month of overissuance is the month the incorrect allotment was effective, respectively.

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.

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

West Virginia Income Maintenance Manual §11.2.5.C explains the collection procedures for repayment claims:

All IPV and client UPV claims are subject to collection through the Treasury Offset Program (TOP). Claims that have a payment balance of at least \$25 are delinquent and are subject to referral for collection of the claim by offset of the client’s federal income tax refund and any federal benefits/payments. Agency-caused UPV claims, established on or after November 1, 1996, are eligible for TOP collection under the condition described above.

Current SNAP recipients who owe an agency error or client error repayment claim will have their benefit entitlement reduced by 10% or \$10, whichever is greater.

Former SNAP recipients can pay the entire agency error or client error claim in its entirety by making a lump sum payment. When the AG is financially unable to pay the claim in one lump sum, regular monthly installment payments are accepted. The minimum amount of the monthly

payment is \$50. If the Investigation and Fraud Management (IFM) Worker determines that the AG cannot afford the minimum payment, the payment amount is negotiated on a case-by-case basis.

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 overissuance was a result of agency error or client error.

The Appellant had been receiving SNAP benefits for herself and her two children since June 2019. The Appellant reported that her parents had moved into her household in February 2020 but stated they purchased and prepared meals separately from her and her children. The Respondent added the Appellant's parents to her SNAP assistance group effective April 1, 2020. The Appellant received SNAP benefits for a five-person assistance group from April 2020 through April 2021.

Policy stipulates that a SNAP assistance group consists of individuals who reside together and purchase and prepare their meals together more than 50% of the time. Individuals who reside together but who do not purchase and prepare meals together can be a separate assistance group. The Appellant consistently reported that her parents purchased and prepared meals separately from her and her children and the Respondent should have excluded the Appellant's parents from her SNAP benefits. However, through no fault of the Appellant, the Respondent added the Appellant's parents to her SNAP assistance group, resulting in an overissuance of SNAP benefits of \$10,257.

The Appellant received SNAP benefits for her parents for which she was not entitled that were issued from April 2020 through April 2021. Whereas the Appellant received SNAP benefits for a five-person assistance group, instead of a three-person assistance group, corrective action must be taken to recoup the overissuance. The Respondent correctly established an agency error repayment claim of SNAP benefits against the Appellant.

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, regardless of whether the overissuance was a result of an agency error or client error.
- 2) The Respondent incorrectly added the Appellant's parents to her SNAP assistance group although she consistently reported that they purchased and prepared meals separately.
- 3) The Respondent established an agency error repayment claim against the Appellant from April 2020 through April 2021, when the Appellant's parents were included in her SNAP assistance group.
- 4) The Respondent's decision to establish a repayment claim is affirmed.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to establish a repayment claim against the Appellant for Supplemental Nutrition Assistance Program benefits issued from April 2020 through April 2021 for which she was ineligible to receive.

ENTERED this 7th day of July 2021.

Kristi Logan
Certified State Hearing Officer