



**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**

August 4, 2021



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 21-BOR-1797

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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

cc: Gina Grubb, WVDHHR

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

[REDACTED]  
**Appellant,**

**v.**

**Action Number: 21-BOR-1797**

**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 August 3, 2021, on an appeal filed June 28, 2021.

The matter before the Hearing Officer arises from the May 3, 2021 decision by the Respondent to seek repayment of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Gina Grubb, 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 Benefit Recovery Referral for the period of October 1, 2020 through February 28, 2021
- D-2 SNAP 6 or 12 Month Contact Form submitted on September 2, 2020
- D-3 Verification request dated September 15, 2020
- D-4 Case Comments dated September 15, 2020 through January 22, 2021
- D-5 Notice of Decision dated January 25, 2021
- D-6 SNAP Claim Determination for period of October 2020 through February 2021, Food Stamp Allotment Determination and SNAP Issuance History-Disbursement
- D-7 Notification of overpayment dated May 3, 2021
- D-8 Overpayment Calculation Sheet with statement from Appellant, Repayment Agreement and electronic mail transmission dated July 6, 2021
- D-9 West Virginia Income Maintenance Manual Chapter 1.2.4
- D-10 West Virginia Income Maintenance Manual Chapter 7.2.3

- D-11 West Virginia Income Maintenance Manual Chapters 11.2 and 11.2.1
- D-12 West Virginia Income Maintenance Manual Chapters 11.2.2., 11.2.3, 11.2.3.A and 11.2.3.A.1
- D-13 Code of Federal Regulations Section 273.18

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 Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, benefits.
- 2) The Appellant was sent a letter on May 3, 2021 (D-7), informing him that he received an over issuance of SNAP benefits for the period of October 2020 through February 2021. The over issuance resulted from an agency error that occurred when the Respondent failed to terminate SNAP benefits upon the submission of an incomplete 6 or 12 Month Contact Form.
- 3) The Appellant submitted a SNAP 6 or 12 Month Contact Form to the Respondent on September 2, 2020 (D-2).
- 4) Upon the form's submission, the Respondent sent the Appellant a verification checklist on September 15, 2020 (D-3), requesting verification of self-employment income for the months of June, July and August 2020.
- 5) The case worker did not receive the requested verification, but allowed the Appellant's case to remain in pending status. As a result, SNAP benefits continued to be issued until the error was discovered on or about January 22, 2021 (D-4).
- 6) As a result of the agency error, the Appellant received a \$970 SNAP over issuance for the period of October 2020 through February 2021 (D-1 and D-6).

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 11.2 (D-11) 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 (D-12) states that there are two types of unintentional program violations: client errors and agency errors. An unintentional

program violation may be established when the Department fails to take prompt action and an over issuance occurs.

### **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 occur when the agency fails to take prompt action that results in an over issuance.

The Appellant contended that the overpayment does not stem from his failure to provide information to the Respondent, and that he attempted to contact the Respondent on several occasions to determine what type of verification he needed to submit. He testified that he did not receive return telephone calls from the Department.

While the Appellant's contentions are noted, policy requires that repayment claims be established for overpayments resulting from agency errors.

### **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 an agency error results in a SNAP over issuance.
- 3) The Respondent erred by permitting the Appellant's SNAP benefits to remain pending and allowing continued issuance after the income verification deadline had elapsed.
- 4) The Respondent's proposal to establish a SNAP repayment claim based on an overpayment resulting from an agency error 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 an Unintentional Program Violation by the agency.

**ENTERED this 4th Day of August 2021.**

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**Pamela L. Hinzman  
State Hearing Officer**