



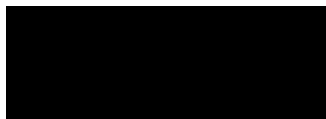
**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
P.O. Box 1736
Romney, WV 26757
304-822-6900**

**Jolynn Marra
Inspector General**

February 28, 2022



RE: [REDACTED] v. WVDHHR
ACTION NO.: 22-BOR-1077

Dear [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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: Emily Shumate, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 22-BOR-1077

**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 ██████████. II. 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 February 24, 2022, on an appeal filed January 17, 2022.

The matter before the Hearing Officer arises from the December 3, 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 Emily Shumate, Repayment Investigator. The Appellant appeared pro se. Appearing as a witness for the Appellant was ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Hearing Request
- D-3 Board of Review Hearing Request Notification
- D-4 Board of Review Scheduling Notice
- D-5 Notice of SNAP Overissuance
- D-6 SNAP Application dated September 8, 2020
- D-7 Correspondence from the State of ██████████
- D-8 Computer printout of case comments
- D-9 West Virginia Income Maintenance Manual § 2.2
- D-10 West Virginia Income Maintenance Manual § 11.2
- D-11 West Virginia Income Maintenance Manual § 11.2.3.A.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) On September 8, 2020, the Appellant applied for SNAP benefits.
- 2) The Respondent approved SNAP benefits for the Appellant based on an assistance group of five (5) household members which included his niece, [REDACTED].
- 3) In July 2021, [REDACTED] was removed from the Appellant's assistance group when she relocated to a [REDACTED] residence.
- 4) In September 2021, [REDACTED] applied for her own benefits in West Virginia.
- 5) [REDACTED] received SNAP benefits in the State of [REDACTED] from January 1, 2020 through September 30, 2021. (Exhibit D-7)
- 6) [REDACTED] received simultaneous SNAP benefits in West Virginia and [REDACTED] from October 2020 until June 2021.
- 7) On December 3, 2021, the Respondent issued a Notice of Overissuance to the Appellant documenting that a repayment claim had been established against him in the amount of \$3428.00 for a time period of October 6, 2020 to June 30, 2021. (Exhibit D-5)

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 1.2.4 documents in pertinent part:

The client's responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about his eligibility.

West Virginia Income Maintenance Manual § 2.2 documents in pertinent part:

To be eligible to receive benefits, the client must be a resident of West Virginia.

The client must live within the borders of West Virginia for purposes other than vacation. There is no minimum time requirement for how long the client must live in West Virginia. The client is not required to maintain a permanent or fixed dwelling.

An individual remains a resident of the former state until he arrives in West Virginia with the intention of remaining indefinitely. Therefore, intent to establish or abandon residency must be known before the state of residence is determined.

West Virginia Income Maintenance Manual § 2.5 documents in pertinent part:

A client may only receive benefits in one county and state.

West Virginia Income Maintenance Manual § 11.2 documents in pertinent part:

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 documents in pertinent part:

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

West Virginia Income Maintenance Manual § 11.2.3.A.2 documents in pertinent part:

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 § 11.2.5 documents in pertinent part:

Collection action is initiated against the AG that received the overissuance. When the AG composition changes, collection is pursued against any and all AGs that include a liable debtor.

The following persons are equally liable for the total amount of the overpayment and are liable debtors:

- Adult or emancipated minors in the AG
- Disqualified individuals who would otherwise be required to be included
- An unreported adult who would have been required to be in the AG had he been reported
- Sponsors of noncitizen AGs when the sponsor is responsible for the overpayment
- An authorized representative of an AG if he is responsible for the overpayment

For AGs containing a liable debtor that are certified at the time the claim is established, collection activity may begin by recoupment, after the notice period expires. Recoupment by benefit allotment reduction is mandatory for all claims when a liable debtor is certified for SNAP. The eligibility system automatically begins recoupment and posts these payments to the claim.

West Virginia Income Maintenance Manual § 11.2.5.2 documents in pertinent part:

All IPV and client UPV claims are subject to collection through the 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. Outstanding claims may be combined to reach the \$25 threshold when evaluating for TOP targeting.

DISCUSSION

Pursuant to policy, repayment claims are established for any assistance group that received more SNAP benefits than which it was entitled to receive. These claims are the difference between the SNAP entitlement of the assistance group and the SNAP allotment the assistance group was entitled to receive. Repayment claims are established regardless of whether the overissuance of benefit was the result of an agency error or a client error. The Appellant has appealed the Respondent's decision to seek repayment of SNAP benefits, due to a client error, in the amount of \$3428.00. The Respondent must show by a preponderance of the evidence that the Appellant received more SNAP benefits than he was entitled to receive from October 2020 to June 2021.

The Appellant began receiving SNAP benefits in October 2020 for an assistance group of five, which included his niece, [REDACTED] [REDACTED] relocated to a [REDACTED] residence and was subsequently removed from the Appellant's SNAP benefits effective July 2021. In September 2021, [REDACTED] applied for her own benefits. At that time, the Respondent discovered that she had been receiving benefits in the [REDACTED] from January 2020 through September 2021. Based on [REDACTED] receipt of SNAP benefits in [REDACTED] she was an ineligible member of the Appellant's assistance group. The Respondent testified this client error resulted in an overissuance of SNAP benefits to the Appellant in the amount of \$3428.00.

The Appellant provided testimony that both he and his niece provided information to the local office regarding her relocation. The Appellant indicated that he requested SNAP assistance due to his inability to work and the repayment of SNAP benefits will create an additional financial burden on his family. [REDACTED] purported that she left the Appellant's household in May 2021 and when she reapplied for benefits in West Virginia, the Department verified the closure of the [REDACTED] benefits prior to the receipt of her own benefits.

Policy is clear that a recipient of SNAP benefits must be a resident of West Virginia and may only receive benefits in one county or state. The evidence revealed that [REDACTED] was a current recipient of SNAP benefits in the State of [REDACTED] when the Appellant included her in his assistance group in September 2020. [REDACTED] continued to receive duplicate benefits until her [REDACTED] SNAP benefits were terminated effective September 2021. [REDACTED] receipt of simultaneous benefits from both states resulted in her being an ineligible member of the Appellant's assistance group. While the Appellant may have been unaware his niece's receipt of [REDACTED] benefits at the time of his application, this unintentional client error resulted in an overissuance of SNAP benefits. Because the Appellant was issued more SNAP benefits than he was entitled to receive, the Respondent's decision to seek a repayment of the overissuance is affirmed.

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) Policy requires that a SNAP recipient may only receive benefits in either one county or state.
- 3) The Appellant's niece received SNAP benefits in the State of [REDACTED] continuously from January 1, 2020 until September 30, 2021 and was ineligible to receive benefits in West Virginia.
- 4) The Respondent established a client error repayment claim against the Appellant due to the Appellant's niece's inclusion in the assistance group when she was ineligible to receive SNAP benefits.

- 5) The Respondent's decision to establish a repayment claim against the Appellant 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 October 2020 through June 2021 for which he was ineligible to receive.

ENTERED this ____ day of February.

Eric L. Phillips
State Hearing Officer