



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

Bill J. Crouch  
Cabinet Secretary

Board of Review  
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Jolynn Marra  
Inspector General

June 8, 2022



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 22-BOR-1502

Dear [REDACTED]:

Enclosed is an amended copy of the decision resulting from the hearing held in the above-referenced matter. The amendment includes a correction in terms used to identify the parties in Finding of Fact No. 6. In arriving at a decision, the Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson, MLS  
State Hearing Officer  
State Board of Review

Enclosure: Appellant's Recourse  
Form IG-BR-29

CC: Donald Greathouse, Investigations and Fraud Management

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

████████████████████,

**Appellant,**

v.

**ACTION NO.: 22-BOR-1502**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Respondent.**

**AMENDED 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 of Chapter 700 of the West Virginia Department of Health and Human Resources' (DHHR) Common Chapters Manual. This fair hearing was convened on May 11, 2022 on an appeal filed with the Board of Review on April 11, 2022.

The matter before the Hearing Officer arises from the Respondent's March 31, 2022 decision to implement a repayment claim against the Appellant for an overissuance of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Donald Greathouse, Investigations and Fraud Management. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, the Appellant's husband. All witnesses were sworn in and the following exhibits were entered as evidence.

**Department's Exhibits:**

- D-1 Benefit Recovery Referral, dated November 3, 2021
- D-2 SNAP Claim Determination; Case Benefit Summary
- D-3 SNAP Application, received October 20, 2020
- D-4 Case Comments, dated December 19, 2019 through December 17, 2020
- D-5 DHHR Notice, dated November 9, 2020
- D-6 ██████████ Pay Stubs, pay dates October 6, October 14, October 21, and October 28, 2020
- D-7 DHHR Notice, dated November 19, 2020
- D-8 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.10 through 1.2.10.B

- D-9 Case Comments, dated December 19, 2019 through December 17, 2020
- D-10 SNAP Change Form , received December 16, 2020
- D-11 DHHR Notice, dated December 29, 2020
- D-12 Application excerpt, signed October 18, 2020

**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 following Findings of Fact are set forth.

**FINDINGS OF FACT**

- 1) The Appellant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits for a four-person Assistance Group (AG) (Exhibits D-10 and D-11).
- 2) On March 31, 2022, the Respondent issued a notice advising that a SNAP repayment claim had been initiated against the Appellant due to an overissuance of SNAP benefits received from April 1, 2021 through December 30, 2021 that the Appellant was not eligible to receive due to an Agency Error.
- 3) The Appellant's AG was income-eligible for SNAP benefits for a 4 person Assistance Group (AG) from April 2021 through November 2021 (Exhibit D-2).
- 4) On October 30, 2020, the Appellant submitted an application for SNAP benefits for a two-person AG (Exhibit D-3).
- 5) On October 30, 2020, the Appellant submitted a written signature acknowledging that she understood the AG would be required to repay any benefits for which it was not eligible because of unintentional errors made by the Respondent (Exhibit D-3).
- 6) On November 19, 2020, the Appellant's SNAP application was denied because the AG's income exceeded SNAP eligibility guidelines (Exhibits D-4, D-6, and D-7).
- 7) On December 16, 2020, the Appellant submitted a change form updating the AG to a four-person AG (Exhibits D-9
- 8) The Appellant's AG was approved for SNAP benefits for a 4 person AG based on the December 16, 2020 change form (Exhibits D-9
- 9) The AG did not complete a new application for SNAP benefits after the November 19, 2020 SNAP eligibility denial (Exhibits D-9

## **APPLICABLE POLICY**

**West Virginia Income Maintenance Manual (WVIMM) §§ 11.2, 11.2.3.A provides in pertinent parts:**

When an assistance group (AG) has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing an Unintentional Program Violation (UPV).

A UPV claim may be established when an error by the DHHR resulted in the overissuance of SNAP benefits. An Agency Error is only established retroactively for the one-year period preceding the date of the discovery.

**WVIMM § 1.2.10.A provides in pertinent part:**

When an application is denied due to income, the applicant must reapply.

## **DISCUSSION**

The Respondent implemented a SNAP overissuance repayment claim against the Appellant because of an Agency Error that occurred when the Respondent's worker approved the Appellant's AG for SNAP benefits — without having the Appellant complete a new application. The dates and amount of the claim were not contested, only the establishment of the claim. The Appellant argued that because of multiple errors made in the Respondent's processing of the Appellant's case, the SNAP overissuance repayment claim should not be implemented.

The Respondent bears the burden of proof. The Respondent had to prove by a preponderance of the evidence that the Respondent made an Agency Error. To prove that the Respondent committed an Agency Error, the Respondent had to establish that the Respondent failed to have the Appellant complete a SNAP application.

The Respondent's representative testified that the Appellant's AG was income eligible for SNAP benefits during the period of the repayment claim. However, the Respondent's representative testified that the Respondent's worker failed to have the Appellant complete an application form following her November 2020 SNAP eligibility denial. The Respondent's representative argued that because the Appellant received SNAP benefits without filling out an application, she was ineligible for SNAP benefits during the repayment claim period.

The Appellant did not dispute that the Respondent required her to complete a change form instead of a new application. The Appellant argued that the Respondent's record reflected an incorrect employer for the Appellant's husband and contended that switching workers contributed to the confusion in the Respondent's determination of her SNAP eligibility. The Respondent did not contest that worker errors occurred that resulted in an Agency Error approving the Appellant's SNAP eligibility without an application.

The Appellant argued that the Board of Review should take into consideration the circumstances regarding the multiple errors made by the Respondent. The Board of Review cannot make exceptions to the policy or judge the policy. The Board of Review can only determine if the Respondent followed the policy when implementing a repayment claim against the Appellant for overissued SNAP benefits due to an Agency Error.

The policy stipulates that when an application is denied due to income, the applicant must reapply. The evidence verified that the Appellant was denied SNAP due to income. Therefore, the Appellant was required to reapply for SNAP benefit eligibility. Because the Respondent made an Agency Error by approving the Appellant for SNAP benefits without requiring her to complete a new application, the Appellant received SNAP benefits she was ineligible to receive.

### **CONCLUSIONS OF LAW**

- 1) When an application is denied due to income, the applicant must reapply.
- 2) The preponderance of evidence verified that the Appellant was denied SNAP benefits due to income.
- 3) A Unintentional Program Violation (UPV) SNAP repayment claim may be established when an Agency Error made by the Respondent resulted in a SNAP overissuance.
- 4) The preponderance of evidence verified that the Respondent made an Agency Error by approving the Appellant for SNAP benefits without requiring her to reapply by completing a new application.
- 5) The Respondent correctly implemented a UPV SNAP repayment claim based on an Agency Error.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to implement a SNAP overissuance repayment claim against the Appellant.

ENTERED this 8th day of June 2022.

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**Tara B. Thompson, MLS**  
State Hearing Officer