



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of the Inspector General  
Board of Review**

**Jeffrey H. Coben, MD  
Interim Cabinet Secretary**

**Christopher G. Nelson  
Interim Inspector General**

September 1, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-2131

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 ensure 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,

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

Encl: Decision Recourse  
Form IG-BR-29

CC: Lisa Snodgrass, [REDACTED] DHHR

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

██████████,

**Appellant,**

**v.**

**Action Number: 23-BOR-2131**

**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 26, 2023.

The matter before the Hearing Officer arises from the Respondent's June 28, 2023 decision to implement Supplemental Nutrition Assistance Program (SNAP) over issuance repayment claims against the Appellant.

At the hearing, the Respondent appeared by Lisa Snodgrass, ██████████ DHHR. The Appellant appeared and represented herself. All witnesses were sworn in and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notices, dated June 28, 2023
- D-2 eRAPIDS Address History printouts
- D-3 Unemployment Address Verification
- D-4 Vehicle System Master Inquiry, dated March 14, 2019
- D-5 Home Program Lease Agreement, entered May 26, 2021
- D-6 eRAPIDS Data Exchange – New Hire Details
- D-7 ██████████ Paystubs
- D-8 eRAPIDS Employee Wage Data screenprint, from 2021 through 2023  
██████████ Paystubs
- D-9 West Virginia Income Maintenance Manual (WVIMM) Income Charts
- D-10 Food Stamp Claim Determination

- D-11 SNAP Application, signed November 23, 2021  
Interim Contact Form, received March 31, 2022  
Electronic Signature Page, signed November 29, 2022  
DHHR Rights and Responsibilities, signed November 29, 2022  
Interim Contact Form, signed April 19, 2023
- D-12 Case Comments, dated August 4, 2021 through May 24, 2023
- D-13 DHHR Notice, dated February 3, 2023
- D-14 Leave of Absence Record
- D-15 Email Correspondence, dated July 18, 2023
- D-16 West Virginia Income Maintenance Manual Excerpts

**Appellant's Exhibits:**

A-1 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 received SNAP benefits for a seven-person Assistance Group (AG) including [REDACTED] and their mutual two-year-old Child [REDACTED] from August 2021 through October 2021 and December 2021 through April 2022 (Exhibits D-11 through D-12).
- 2) The Appellant received SNAP benefits for a six-person AG excluding [REDACTED] from December 2022 through April 2023 (Exhibits D-11 through D-12).
- 3) On June 28, 2023, the Respondent issued notices advising the Appellant that the following *client error* SNAP over-issuance repayment claims were being implemented against the Appellant:
  - \$3,780.00 because of “WAGES/SALARIES-UNREPORTED/INCORRECT” from August 1 through October 31, 2021 (Exhibit D-1)
  - \$6,786.00 because of “WAGES/SALARIES-UNREPORTED/INCORRECT” from December 1, 2021 to April 30, 2022 (Exhibit D-1)
  - \$6,790.00 because of “WAGES/SALARIES-UNREPORTED/INCORRECT” from December 1, 2022 to April 30, 2023 (Exhibit D-1).
- 4) Client errors related to household composition reporting were not a basis of repayment listed on the notices (Exhibit D-1).
- 5) Some paystubs included in the Respondent's exhibits were illegible (Exhibit D-6).

**August 1 through October 31, 2021:**

- 6) [REDACTED] resided with the Appellant (Exhibits D-2, D-3, D-5, D-7).
- 7) On September 29, 2021, the Appellant reported the onset of her [REDACTED] employment at [REDACTED] (Exhibit D-12).
- 8) On September 29, 2021, the Respondent pended the Appellant's case for income verification (Exhibit D-12).
- 9) On November 23, 2021, the Appellant reported during her eligibility interview that her [REDACTED] employment was a one-week duration (Exhibit D-12).
- 10) [REDACTED] had wage earnings from [REDACTED] in the first, second, third, and fourth quarters of 2021 (Exhibit D-8).
- 11) The Appellant had wage earnings from various employers in the third and fourth quarters of 2021 (Exhibit D-8).

**December 1, 2021 to April 30, 2022:**

- 12) On November 23, 2021, the Appellant did not list an employer or earned income for herself on her review form or during her eligibility interview (Exhibits D-11 and D-12).
- 13) On November 23, 2021, and March 31, 2022, the Appellant reported [REDACTED] as a member of her seven-person household (Exhibit D-11).
- 14) The Appellant reported [REDACTED] earned income for [REDACTED] rate of pay -\$10.50; number of hours worked – 80; how often received – every two weeks (Exhibit D-11).
- 15) On November 23, 2021, the Respondent pended the Appellant's case for income verification (Exhibit D-12).
- 16) On December 3, 2021, the Respondent received [REDACTED] income verification (Exhibit D-12).
- 17) On December 3, 2021, the Appellant's AG was approved for "prorated SNAP from November at \$206 and ongoing of \$775 this date" (Exhibit D-12).
- 18) The Appellant was employed at [REDACTED], beginning December 1, 2021 (Exhibits D-6 and D-8).
- 19) The Appellant had wage earnings from [REDACTED] in the fourth quarter of 2021 (Exhibit D-8).

**December 1, 2022 to April 30, 2023**

- 20) The Appellant had wage earnings from [REDACTED] in the fourth quarter of 2022 (Exhibit D-8).
- 21) The Appellant had wage earnings from [REDACTED] in the first quarter of 2023.
- 22) [REDACTED] had wage earnings from [REDACTED] in the fourth quarter of 2022 (Exhibit D-8).
- 23) On November 29, 2022, the Appellant applied for SNAP benefits for a six-person AG (Exhibit D-12).
- 24) On November 29, 2022, the Respondent removed [REDACTED] from the AG (Exhibit D-12).
- 25) On December 5, 2022, the Respondent scanned the Appellant's submitted verification into her case (Exhibit D-12).
- 26) On April 19, 2023, the Appellant submitted her SNAP Interim Contact Form (Exhibit D-11).
- 27) Section 2 *Information about the people in your household* reflected pre-populated typed names of household members (Exhibit D-11). This section did not list [REDACTED] (Exhibit D-11).
- 28) Section 2 instructs, "Review the names and check "Yes," if they still live with you, or "No" if they do not" (Exhibit D-11). The Appellant selected "Yes" beside each name listed (Exhibit D-11).
- 29) Section 4 *Household Earned Income* reflected \$0.00 as the household's gross earned income amount (Exhibit D-11).
- 30) Section 4 reflected the Appellant's [REDACTED] employment from February 15, 2022, through November 15, 2022 (Exhibit D-11).
- 31) Section 5 *Household Unearned Income* reflected pre-populated \$841.00 (Exhibit D-11).
- 32) The Appellant's response in Section 5 indicated no change (Exhibit D-11).
- 33) [REDACTED] had wage earnings from [REDACTED] in the first quarter of 2023 (Exhibit D-8).
- 34) [REDACTED] received earned income from his [REDACTED] employment, beginning October 2022 (Exhibits D-6 and D-8).
- 35) On January 10, 2023, the Appellant submitted a medical provider statement indicating she was expected to be incapacitated for full calendar days from November 18, 2022, to January 5, 2023 (Exhibit D-14).

- 36) On February 9, 2023, the Appellant submitted a “Return to Work Letter – UPDATE” that indicated she was able to return to work part-time with limitations/accommodations on January 24, 2023 (Exhibit D-14).
- 37) The Appellant’s March 12 through March 25, 2023, and March 26 through April 8, 2023, paystubs reflect regular and overtime wages at various rates (Exhibit D-7).

### **APPLICABLE POLICY**

#### **WVIMM § 3.2.1.A.4 *Children Under Age 22, Living with a Parent* provides in relevant sections:**

Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as that parent.

#### **WVIMM § 4.3.1 *Charts of Income Sources – Chart 1 § 30.j* provides in relevant sections:**

For SNAP, wages are considered as earned income unless the earner is under 18 years old.

#### **WVIMM §4.4.1 *Budgeting Method* provides in relevant sections:**

Eligibility is determined and benefits are issued monthly; therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the AG. Income is projected; past income is used only when it reflects the income the client reasonably expects to receive during the certification period.

#### **WVIMM § 11.2 *SNAP Claims and Repayment Procedures* provides in relevant sections:**

When an AG 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 SNAP entitlement of the AG and the SNAP allotment the AG was entitled to receive.

#### **WVIMM § 11.2.1 *Referral Process* provides in relevant sections:**

Upon discovery of a potential SNAP claim, the Worker refers the case to the Repayment Investigators (RI). In determining if a referral is appropriate, the Worker must consider the client’s reporting requirements, the Worker’s timely action, and the advance notice period.

**WVIMM § 11.2.3.A *UPV Claims* provides in relevant sections:**

There are two types of UPVs — client errors and agency errors. A UPV claim may be established when:

- An error by the DHHR resulted in the over-issuance
- An unintentional error made by the client resulted in the over issuance...

A client error UPV is only established retroactively for the six-year period preceding the month of discovery. An agency error is only established retroactively for the one-year period preceding the date of the discovery. The RI determines the month in which the over-issuance initially occurred as follows.

**WVIMM § 11.2.3.A.2 *Client Errors* provides in relevant sections:**

When the client fails to provide accurate or complete information, the first month of the over-issuance is the month the incorrect, incomplete, or unreported information would have affected the benefit level considering notice and reporting requirements ... NOTE: Depending on whether or not an AG has earned income or at least one WV WORKS participant, reporting requirements may be different. See Section 10.4.2 for the appropriate AG reporting requirements.

**WVIMM § 10.4.3.B *Decrease in Benefits* provided in the relevant section:**

When the reported change results in a decrease in benefits, the change is effective the following month, if there is time to issue advance notice. If not, the change is effective two months after it occurs. No claim is established unless the client fails to report it in a timely manner, and this is the only reason the change could not be made within 13 days of the advance notice period.

**WVIMM § 10.4.2 *Client Reporting Requirements* provides in relevant sections:**

All SNAP AGs must report changes related to eligibility and benefit amount at application and redetermination. SNAP AGs are subject to limited reporting requirements ...Regardless of the SNAP reporting requirement, all changes reported directly by an AG member ... or from a source that is listed as verified upon receipt below must be acted on, even if the AG is not required to report the information ....

When reported information results in a change in benefits and additional or clarifying information is needed, the Worker must first request the information by using the DFA-6 or verification checklist. If the client does not provide the information within the time frame specified by the Worker, appropriate action is taken after advance notice. Each reported change is evaluated independently for the appropriate action to be taken. When a

reported change results in a change in the certification period, the client must receive advance notice of the change ....

**WVIMM § 10.4.2.A *Limited Reporting* provides in relevant sections:**

When approved with a gross non-excluded income at or below 130% of the Federal Poverty Level (FPL), an AG must report when the total gross non-excluded earned and unearned income of the Income Group (IG) exceeds 130% of the FPL for the number of individuals in the original AG.

When approved with a gross non-excluded income above 130% of the FPL, an AG must report when the total gross non-excluded earned and unearned income of the IG exceeds 200% of the FPL for the number of individuals in the original AG.

If an AG approved with an income above 130% of the FPL reports non-excluded income at or below 130% of the FPL, the AG's eligibility must be reevaluated. If the AG remains eligible for SNAP, the AG is then required to report when the total gross non-excluded earned and unearned income of the IG exceeds 130% of the FPL for the number of individuals in the original AG ....

No other changes are made unless the information is reported by an AG member, comes from a source that is verified upon receipt, or is received from a source that is considered reported ..

Limited Reporting Example 3: A family of four receives SNAP based on a gross income above 130% of the FPL but below 200% of the FPL. The AG is not required to report an income change unless the total gross income exceeds 200% of the FPL. The mother, who was self-employed, calls to report that she has discontinued her business due to lack of sales. The Worker updates the income and increases the family's SNAP. The gross income of the AG is now below 130% of the FPL, so the AG is required to report if the total gross income of the AG exceeds 130% of the FPL. A few months later, the mother is hired by a local newspaper. After her first paycheck, the AG calculates the income received for the month and determines that it exceeds 130% of the FPL. The AG is required to report this by the 10th of the following month.

**WVIMM § 10.4.2.B.1 *Sources of Information Verified Upon Receipt* provides in relevant sections:**

Action must be taken for all AGs when information is received from a source that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the



primary source of the information. The only sources considered verified upon receipt are: ...

- Unemployment Compensation (UC) and work registration data from WorkForce West Virginia...
- State On-Line Query (SOLQ)...

**WVIMM §10.4.2.B.2 *Sources That Are Considered Reported* provides in relevant sections:**

Communication from an AG member is considered as a reported change. Changes reported during an application or redetermination for any program of assistance that is entered in the eligibility system and includes an AG member are also considered reported changes.

**WVIMM 10.4.2.B.3 *Information Reported from Third-Party Sources* provided in relevant sections:**

During the certification period, the agency may receive information about changes in a household's circumstances from a third party. The Worker must pursue clarification of the information and require verification if needed. Third-party sources include but are not limited to:

- New Hire Alerts...

The Worker must follow up on all unclear information during the certification period when it is reported on the contact form or meets the following criteria:

- The information presents significantly conflicting information from that used by the DHHR at last certification; or
- The information would have to be reported under the household's reporting requirements and the information is fewer than 60 days old from the current month.

If the household does not meet this criterion, then the information should not be acted upon until next SNAP application, redetermination or contact form.

**WVIMM § 10.4.2.B.4 *Unclear Information* provides in relevant sections:**

Unclear information is any information received from any source with which the Worker cannot readily determine the effect of the reported information on the household's benefit. The Worker must pursue clarification and required verification of unclear information related to these reported changes. Additional information requested from the applicant is due 10 calendar days from the date of the DFA-6 verification checklist.

**WVIMM § 10.4.2.C *Timely Reporting and Follow-Up* provides in relevant sections:**

To determine if a claim for benefit repayment must be established or a lost benefit restored, a decision must be made as to whether a change was reported in a timely manner.

When the client does not report in a timely manner and the change could have been made earlier, a claim for benefit repayment may be established. See Chapter 11.

**DISCUSSION**

The Respondent's representative testified that the Appellant underreported the household's income on multiple occasions and was subsequently issued SNAP benefits for which it wasn't entitled to receive. The Respondent is required to issue a notice advising the Appellant of any proposed adverse action and the basis for the proposed action. During the hearing, the Respondent's representative testified that the Respondent also determined the Appellant removed [REDACTED] from the AG composition to obtain SNAP benefits. The Respondent's notices only indicated the *client error* was due to unreported or incorrect income, not because of a *client error* in reporting her household composition. The Respondent had to prove by a preponderance of the evidence that the Appellant's failure to provide correct information about her household's income resulted in the overissuance of SNAP benefits during multiple issuance periods.

The Appellant argued that she reported information and submitted requested verifications when required. During the hearing, the Appellant testified that she has reading comprehension issues. The Appellant testified that she reported the information to the Respondent's worker, who entered the information into the Appellant's case. The Appellant's testimony during the hearing reflected that [REDACTED] should have always been included in the Assistance Group (AG), that he would go to his mother's residence for periods, that she never reported him out of the household, and he was not removed from the lease. [REDACTED] lease, employment, and vehicle records indicate he has resided with the Appellant and his mutual child. Mutual parents of a child that reside with the child must be included in the same AG. Earned income from both parents must be considered when determining the AG's SNAP eligibility.

Illegible paystubs included in the Respondent's D-6 exhibit were unreliable as the dates and amounts could not be discerned.

No evidence, such as AG's SNAP benefit issuance history records, was submitted to verify the dates and amounts of SNAP issuance received by the Appellant during the proposed SNAP over-issuance period.

**August 1 through October 31, 2021**

When an AG has been issued more SNAP benefits than it was entitled to receive, an unintentional program violation (UPV) repayment claim may be established to recoup the difference between the AG's SNAP entitlement and the SNAP allotment the AG was entitled to receive. The

Respondent had to prove by a preponderance of the evidence that the Appellant committed a client error by incorrectly reporting the AG's income, which resulted in the Appellant receiving more SNAP benefits than the AG was entitled to receive from August 1 through October 31, 2021.

During the hearing, the Respondent's representative argued that [REDACTED] was employed from June 2018 through October 2022 and his income was not reported. The Respondent's representative testified the Appellant reported her income in September 2021 but did not report [REDACTED] employment until her SNAP eligibility review on November 23, 2021.

The Respondent argued that the Appellant failed to report [REDACTED] employment income, however, no evidence was submitted to indicate what the Appellant had reported when she was determined eligible for SNAP benefits received during the proposed over-issuance period. Applications and contact forms submitted are dated after the proposed over-issuance period. The provided case comments began after the onset of the proposed over-issuance period.

The policy stipulates that the Appellant's reporting requirements must be considered. The Appellant was required to report changes related to eligibility and benefit amount at application and redetermination. The Appellant's AG was subject to limited reporting requirements. Pursuant to the *Limited Reporting* policy, AGs approved with a gross non-excluded income at, below, or above the Federal Poverty Level (FPL) are required to report when the household's income exceeds 130% and 200% of the FPL, respectively. Pursuant to the Income Chart in place during the period, for a seven-person AG, 130% of the FPL is \$4,295, and 200% is \$4,295. No evidence was submitted to verify what income level the AG was approved at before the onset of the proposed over-issuance period, August 1, 2021. Without a preponderance of evidence to establish the FPL income, it cannot be determined at what income level the AG was required to report her income changes.

On September 29, 2021, the Appellant reported the onset of her [REDACTED] employment. The Respondent's new hire information indicated the onset of [REDACTED] employment on August 30, 2021. Under the policy, third-party sources — such as new hire alerts — are not considered verified upon receipt and require clarification. The policy requires the worker to follow up on unclear information during the certification period when the information is significantly conflicting with information used by the DHHR at the last certification. Otherwise, the policy instructs that information should not be acted upon until the next SNAP application, redetermination, or contact form.

The case comments revealed that on September 28, 2021, the Respondent's worker pended the Appellant's case for income verification. No evidence was submitted to establish what verification was requested or when the verification was due. On November 23, 2021, the Appellant reported that she was only employed for a week and was unable to obtain [REDACTED] employment verification.

The submitted evidence did not reveal what the Appellant had reported as her household's composition and income before her August 2021 SNAP benefit issuance. Without having sufficient information to establish what the Appellant had reported before her benefit issuance, it cannot be affirmed that she failed to report [REDACTED] income or her income as required.

The evidence reflected quarterly wage earnings for the Appellant and [REDACTED]. The policy provides instructions on how to calculate a monthly income amount for the AG. The policy stipulates that past income should only be used when it reflects the income the client reasonably expected to receive during the certification period. The submitted evidence did not provide insight into how the Respondent applied the wage data to calculate the AG's monthly income during the proposed SNAP over-issuance period. Without this information, it cannot be determined whether the Appellant's AG received more SNAP benefits during the proposed over-issuance period than it was entitled to receive.

December 1, 2021 to April 30, 2022

The notice issued by the Respondent indicated that the Appellant was overissued SNAP benefits during this period due to client errors regarding income reporting. At the onset of her testimony, the Respondent's representative testified that the Appellant's AG exceeded income eligibility guidelines from December 2021 to April 2022.

The Respondent argued that the quarterly earnings for the Appellant do not match her November 2021 statement that she was only employed with [REDACTED] for a week during the third quarter of 2021. The evidence revealed the Appellant earned wages from [REDACTED] during the fourth quarter of 2021. During the hearing, the Appellant did not explain the discrepancy. The Appellant's November 23, 2021 review was completed at the end of the second month of the fourth quarter of 2021. The preponderance of the evidence indicated that the Appellant had unreported [REDACTED] wages during the fourth quarter of 2021 that should have been reported during the Appellant's November 2021 review. Because wages must be converted to a monthly amount and considered when determining SNAP eligibility and benefit allotment, the Appellant's receipt of wages during this period could have affected the AG's SNAP eligibility and benefit allotment amount.

The Appellant has a responsibility to report accurate information about her circumstances so that a correct decision can be made regarding the SNAP AG's benefit eligibility. When the client fails to provide accurate or complete information, the first month of the over-issuance is the month the incorrect, incomplete, or unreported information would have affected the benefit level. Pursuant to the policy, if the Appellant's November 23, 2021, unreported [REDACTED] wages would have resulted in a decrease in benefits, the change in benefits should have been effective January 2023.

Although the Respondent received [REDACTED] income verification on December 3, 2021, the verification was not submitted as evidence for review. It was not explained during the hearing, how the Respondent used the verification to determine the AG's monthly income amount when calculating the AG's December 3, 2021 SNAP allotment amount. Because the amount of monthly income used to determine the proposed SNAP over-issuance period is unclear, it cannot be affirmed that the AG's income exceeded the income eligibility guidelines for this period.

After a March 2022 SNAP eligibility review, the Appellant was denied SNAP eligibility on April 19, 2022.

December 1, 2022 to April 30, 2023

To demonstrate that the Appellant's household was over income and ineligible to receive the amount of SNAP benefits received, the evidence had to reveal the amounts and months of SNAP benefits received and the amount of income received by the AG that should have been reported.

Pursuant to the case comments, on November 29, 2022, the Appellant applied for SNAP benefits. The Respondent argued that the Appellant intentionally did not list [REDACTED] in the household to avoid reporting his income. The case comments indicated that the Respondent removed [REDACTED] from the case on November 29, 2022. While the Rights and Responsibilities were provided, the Appellant's November 29, 2022 application for benefits was not submitted as evidence. The Appellant argued that [REDACTED] should have been included in her AG and that the worker failed to place him in her household. The Appellant testified that the Respondent's worker advised her that [REDACTED]'s verification information was not required because she was not married. Without the Appellant's application to review, it cannot be affirmed that the Appellant failed to list [REDACTED] as a member of her household. The submitted evidence failed to prove by a preponderance of the evidence that [REDACTED] was omitted from the Appellant's case due to a *client error*.

The Respondent's representative testified that the Appellant's medical leave form only indicated two physician appointments and therefore did not equate verification that the Appellant was on leave. The quarterly wage records provided provide wage information for the Appellant through the first quarter of 2023. While the dates of the Appellant's physician appointments are listed on the form, the physician's statement indicates that the Appellant is expected to be incapacitated for "more than three consecutive, full calendar days from 11/18/22 to 1/5/23" (Exhibit D-14). The preponderance of the evidence reveals the form was signed by the Appellant's provider. The Appellant testified that she was on unpaid medical leave and was off work for the period submitted.

The Respondent's representative testified that the Respondent's worker acted on the Appellant's November 29, 2022 report and changed the Appellant's case to reflect zero income, resulting in SNAP over-issuance. Pursuant to the policy, a UPV may also be established when an *agency error* results in the over-issuance of SNAP benefits. Had the Respondent included [REDACTED] in the AG and considered his income, the AG's SNAP eligibility and allotment amount may have been affected. For an agency error, the first month of over-issuance is the month the change would have been effective had the agency acted promptly. An *agency error* is only established retroactively for the one-year period preceding the date of discovery. While the Respondent's representative testified that an investigation was conducted, the preponderance of the evidence did not reveal the date of the proposed SNAP over issuance discovery.

The Respondent's calculation worksheets indicate total gross earned income amounts. While the Respondent's calculation sheets reflect months and amounts of SNAP benefit issuance, corroborating records, such as printouts of the Appellant's benefit issuance history, were not submitted for review. The two legible paystubs provided reflect wages earned by the Appellant at various rates. The evidence revealed social security benefits being received by a member of the AG. It was not clarified whether this income was excluded or included in the Respondent's monthly income calculation. The submitted records were insufficient to verify the monthly amount

of income that should have been considered when determining the Appellant's AG's SNAP eligibility and allotment during this period. The Respondent's monthly income calculations were not explained during the hearing and could not be replicated upon review due to illegible paystubs and no verification of the amount of monthly income received by [REDACTED] during the proposed SNAP over-issuance periods.

### **CONCLUSIONS OF LAW**

- 1) An unintentional program violation (UPV) repayment claim may be established when a *client error*, made by incorrectly reporting household income, results in the Assistance Group (AG) receiving more SNAP benefits than the AG was entitled to receive.
- 2) The preponderance of the evidence failed to prove that the Appellant committed a *client error* that resulted in the AG receiving more SNAP benefits than it was entitled to receive from August 1 through October 31, 2021.
- 3) The preponderance of the evidence revealed that the Appellant made a *client error* on her November 23, 2021 SNAP review by failing to report her 2021 fourth-quarter wages.
- 4) The preponderance of the evidence failed to prove that the Appellant's November 23, 2021 *client error* resulted in the over-issuance of SNAP benefits to the Appellant from December 1, 2021, to April 30, 2022.
- 5) The preponderance of the evidence failed to prove that the Appellant committed a *client error* that resulted in SNAP benefit over-issuance from December 1, 2022, to April 30, 2023.
- 6) The Respondent's decision to implement *client error* SNAP over-issuance repayment claims against the Appellant was incorrect.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to implement *client error* SNAP over-issuance repayment claims against the Appellant.

Entered this 1<sup>st</sup> day of February 2023.

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