



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

**Sherri A. Young, DO, MBA, FAAFP
Interim Cabinet Secretary**

**Christopher G. Nelson
Interim Inspector General**

October 4, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-2562

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Birdena Porter, [REDACTED] DHHR

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

████████████████████,

Appellant,

v.

Action Number: 23-BOR-2562

**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 October 3, 2023, on an appeal filed August 18, 2023.

The matter before the Hearing Officer arises from the August 10, 2023, decision by the Respondent to establish a repayment claim of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Birdena Porter, Repayment Investigator. The Appellant was self-represented. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 SNAP Notice of QC Error Findings dated July 17, 2023
- D-2 Case Comments for April 2022
- D-3 SNAP Claim Determination Form
- D-4 Case Benefit Summary Screen Prints
- D-5 View/Modify Assistance Group Level Review Date Screen Print
- D-6 West Virginia Income Maintenance Manual §1.4

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.
- 2) In July 2023, the Respondent's Quality Control unit determined that the Appellant's SNAP benefits were approved in error in April 2022 (Exhibit D-1).
- 3) On April 20, 2022, the Respondent caseworker removed the Appellant's daughter from her case (Exhibit D-2).
- 4) SNAP benefits for the Appellant were approved on April 20, 2022.
- 5) Prior to April 2022, the Appellant had not received SNAP benefits since April 2018 (Exhibit D-4).
- 6) The Appellant did not complete an application for SNAP benefits or complete an eligibility interview.
- 7) The Respondent established an agency error SNAP repayment claim of \$3,043 issued to Appellant in error from April 2022 through August 2023.

APPLICABLE POLICY

Code of Federal Regulations Title 7 §273.18 explains SNAP repayment claims:

(a) ***General.***

(1) A recipient claim is an amount owed because of:

(i) Benefits that are overpaid or

(ii) Benefits that are trafficked. Trafficking is defined in [7 CFR 271.2](#).

(2) This claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these regulations.

(3) As a State agency, you must develop a plan for establishing and collecting claims that provides orderly claims processing and results in claims collections similar to recent national rates of collection. If you do not meet these standards, you must take corrective action to correct any deficiencies in the plan.

(4) The following are responsible for paying a claim:

- (i) Each person who was an adult member of the household when the overpayment or trafficking occurred;
- (ii) A person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.

(b) ***Types of claims.*** There are three types of claims:

- (1) Intentional Program Violation (IPV) claim - any claim for an overpayment or trafficking resulting from an individual committing an IPV.
- (2) Inadvertent Household Error claim - any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.
- (3) Agency Error claim - any claim for an overpayment caused by an action or failure to take action by the State agency.

(c) ***Calculating the claim amount*** —

(1) *Claims not related to trafficking.*

(i) As a State agency, you must calculate a claim back to at least twelve months prior to when you became aware of the overpayment. Do not include any amounts that occurred more than six years before you became aware of the overpayment.

(ii) Actual step for calculating a claim are –

(A) Determine the correct amount of benefits for each month that the household received an overpayment.

(B) Do not apply the earned income deduction to that part of any earned income that the household failed to report timely when this act is the basis for the claim.

(C) Subtract the correct amount of benefits actually received. The answer is the amount of the overpayment.

(D) Reduce the overpayment amount by any EBT amounts expunged for the household's EBT account.

Code of Federal Regulations Title 7 §273.2 explains the SNAP application process:

(a) ***Operation of SNAP offices and processing of applications*** —

2) ***Application processing.*** The application process includes filing and completing an application form, being interviewed, and having certain information verified.

(7) ***Signing an application or reapplication form.*** In this paragraph, the word “form” refers to applications and reapplications.

(i) ***Requirement for a signature.*** A form must be signed to establish a filing date and to determine the State agency's deadline for acting on the form. The State agency shall not certify a household without a signed form.

West Virginia Income Maintenance Manual Chapter 1 explains the SNAP application process:

1.4.1 Application Process

Applications may be submitted using the DFA-2, DFA-SNAP-1, or WV PATH. If the AG has missed an issuance month and is not eligible for reinstatement of benefits, a new application form and interview is required. If the application is approved, the AG will be assigned a new certification period.

1.4.2 Complete Application

An application form is considered complete when all relevant sections of the application form to a SNAP application are completed and the application form is signed by a responsible member of the AG or an authorized representative. The client is not required to provide a complete application form to begin the application process so long as the incomplete application form contains, at a minimum, the client's name, address, and signature. An incomplete application containing, at a minimum, the client's name, address, and signature protects the date of application through the application process and must be acted upon. Whether the application received is complete or is an allowable incomplete application, an interview must be scheduled.

1.4.4 Interview Required

An interview is required when an application form is required. See Section 1.4.1, Application Process, above for situations when an application form is not required. See Section 1.4.5, Who Must Be Interviewed, below about authorized representatives. All individuals who apply for SNAP benefits using any method, are interviewed by phone unless the individual chooses to be interviewed face-to-face. When an interview is completed by phone, an application form is still required. If the client submits an application form with only a name, address, and signature to protect their application date, the customer must provide another signature attesting the information provided during the phone interview is accurate.

West Virginia Income Maintenance Manual Chapter 11 explains repayment procedures:

11.2 SNAP Claims and Repayment Procedures

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.

11.2.3 Identifying the Month(s) for Which Claims are Established

The number of month(s) for which claims are established depend on whether it is an IPV or UPV.

11.2.3.A UPV Claims

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
- The client's benefits are continued pending a Fair Hearing decision and the subsequent decision upholds the DHHR's action
- It is determined by court action or ADH the client did not commit an IPV; the claim is pursued as a UPV
- The AG received SNAP solely because of Categorical Eligibility, and it is subsequently determined ineligible for WV WORKS and/or Supplemental Security Income (SSI) at the time it received it
- The DHHR issued duplicate benefits and the overissued amount was not returned
- The DHHR continued issuance beyond the certification period without completing a redetermination

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** (emphasis added).

11.2.3.A.1 Agency Errors

Failure to Take Prompt Action - The first month of overissuance is the month the change would have been effective had the agency acted promptly.

Computation Error - The first month of overissuance is the month the incorrect allotment was effective.

DISCUSSION

Pursuant to policy and federal regulations, a signed application and interview are required to be certified for SNAP benefits. On April 20, 2022, while performing case maintenance, a Respondent caseworker inadvertently approved SNAP benefits for the Appellant. The error was discovered in July 2023 during an audit by the Respondent's Quality Control division.

The Respondent established an agency error repayment claim against the Appellant for SNAP benefits that were issued from April 2022 through August 2023. The Respondent contended that the Appellant did not complete the required application or interview for SNAP benefits, therefore benefits were issued in error.

Federal regulations and agency policy stipulate that when an assistance group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing a repayment claim. The claim is the difference between the SNAP entitlement of the assistance group and the SNAP allotment the assistance group was entitled to receive.

The Appellant purported that the Respondent has her confused with her daughter, who resided with her for two years. The Appellant testified that her daughter was also receiving SNAP benefits and claimed it was her daughter who must owe the repayment. The Appellant stated the notice of the repayment claim was mailed to [REDACTED] an address where she has never resided but was her daughter's previous address before moving in with her. The Appellant contested the Respondent's assertion that she did not complete an application for SNAP, stating she always completes any paperwork she receives.

Prior to the approval of SNAP benefits, the Appellant last received SNAP benefits in 2018. The Appellant's argument that she applied for SNAP benefits is unsubstantiated. There is no evidence that the Appellant applied for or completed an eligibility interview as required by policy in April 2022. The Appellant was incorrectly certified for SNAP benefits, therefore, the benefits issued in error must be recouped.

Policy states that agency error repayment claims can only be established retroactively for the one-year period preceding the date of the discovery. The Respondent discovered the overpayment in July 2023, and the one-year period preceding the date of discovery is July 2022. The Appellant is not liable for benefits issued in error from April 2022 through June 2022.

CONCLUSIONS OF LAW

- 1) Federal regulations and policy require a signed application and an interview with the applicant for the certification of SNAP benefits.
- 2) The Respondent approved SNAP benefits for the Appellant in absence of an application and interview.
- 3) When an assistance group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing a repayment claim.
- 4) The Appellant was ineligible to receive SNAP benefits that were issued in error from April 2022 through August 2023.
- 5) Agency error repayment claims can only be established retroactively for the one-year period preceding the date of the discovery.
- 6) The Appellant is not responsible for repaying SNAP benefits that were issued in error in excess of the one-year period preceding the date of the discovery.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's decision to establish a repayment claim of Supplemental Nutrition Assistance Program benefits. The matter is remanded for a recalculation of the Appellant's repayment claim for months outside of the one-year period preceding the date of the discovery of the overpayment.

ENTERED this 4th day of October 2023.

Kristi Logan
Certified State Hearing Officer