



**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**

September 29, 2023

[REDACTED]

Re: [REDACTED] v WV DHHR
ACTION NO.: 23-BOR-2564

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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

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

cc: Christina Saunders, Investigations and Fraud Management

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

[REDACTED],
Appellant,

v.

Action Number: 23-BOR-2564

**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 (WV) Department of Health and Human Resources' (DHHR) Common Chapters Manual. This fair hearing was convened on September 21, 2023, on an appeal filed August 18, 2023.

The matter before the Hearing Officer arises from the August 02, 2023 determination by the Respondent to implement a Supplemental Nutrition Assistance Program (SNAP) benefit repayment claim against the Appellant.

At the hearing, the Respondent appeared by Christina Saunders, Investigations and Fraud Management. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV DHHR People's Access to Help (PATH) Benefit Recovery Referral, dated September 08, 2023; SNAP Claim Determination, dated November 2016 through November 2017; WV PATH Food Stamp Allotment Determination(s) and SNAP Claim Calculation Sheet(s), dated November 2016 through November 2017; WV DHHR PATH Snap Issuance History - Disbursement, dated September 04, 2014 through May 03, 2018; WV DHHR PATH Historical Employee Wage Data, dated May 10, 2018; WV DHHR PATH eligibility system printout of Case Comments, dated October 25, 2016 through December 07, 2017; Signed Statement from [REDACTED] dated November 17, 2017; Signed Statement from [REDACTED], dated November 17, 2017; WV DHHR PATH eligibility system printout of Claimant Profile Data for [REDACTED], dated October 16, 2016 through October 14, 2017; WV DHHR PATH eligibility system printout of Benefit Payment History for [REDACTED] WV DHHR PATH eligibility system printout of

- Driver History Inquiry - Driver ID for [REDACTED] WV DHHR PATH eligibility system printout of Driver History Inquiry - Driver ID for [REDACTED]
- D-2 WV DHHR Notice of SNAP Overissuance, dated May 30, 2018
 - D-3 West Virginia Income Maintenance Manual (WVIMM) §§ 11.2.6.A.4, 11.2.7
 - D-4 WV PATH eligibility system printout of Claim Recoupment History, dated September 07, 2023
 - D-5 WV Vital Registration Documentation of Death Record for [REDACTED] printed September 08, 2023
 - D-6 WV DHHR Notice of SNAP Benefit Closure With Outstanding Claim Balance, dated August 02, 2023
 - D-7 WVIMM §§ 3.2.1 - 3.2.1.A.2
 - D-8 WVIMM §§ 11.2 - 11.2.1
 - D-9 WVIMM §§ 11.2.4 - 11.2.5.A
 - D-10 Code of Federal Regulations 7 CFR § 273.18

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 married to and resided with [REDACTED] during the period of November 01, 2016 through November 30, 2017.
- 2) During that time, [REDACTED] received Supplemental Nutrition Assistance Program (SNAP) benefits, failing to report that she resided with the Appellant. (Exhibits D-1, D-2, D-4, and D-6)
- 3) On November 29, 2017, the Respondent's Front-End Fraud Unit (FEFU) investigated [REDACTED] living arrangement and determined that she and the Appellant resided at the same address. (Exhibits D-1, D-2, D-4, and D-6)
- 4) The Appellant was required to be included in the SNAP Assistance Group (AG) because he was legally married and shared a household with [REDACTED] (Exhibits D-1, D-2, D-4, and D-6)
- 5) The Appellant was employed by [REDACTED] during the time period in question and his income was not counted toward the SNAP AG. (Exhibits D-1, D-2, D-4, and D-6)
- 6) [REDACTED] failure to report the Appellant as part of the AG resulted in a \$1,819 SNAP overpayment for the period of November 2016 through November 2017. (Exhibits D-1, D-2, D-4, and D-6)
- 7) On May 30, 2018, the Department established a "client error" SNAP repayment claim in the

amount of \$1,819 against [REDACTED] to recoup the over-issuance of SNAP benefits due to “Budget Group in Error.” (Exhibits D-1, D-2, D-4, and D-6)

- 8) [REDACTED] passed away on June 08, 2023. (Exhibits D-5 and D-6)
- 9) On August 02, 2023, a repayment obligation in the amount of \$1,132 was established against the Appellant, as a liable debtor. (Exhibit D-6)
- 10) The Appellant was unaware [REDACTED] received SNAP benefits from the time period of November 01, 2016 through November 30, 2017.
- 11) The Appellant was unaware that a SNAP repayment claim was established against [REDACTED] and/or that she had paid a recoupment amount of \$687 for the overpayment period of November 2016 through November 2017, prior to her death.
- 12) The Appellant is considered a liable debtor in [REDACTED] SNAP case and is subject to the repayment. (Exhibits D-1, D-2, D-4, and D-6)
- 13) The Respondent determined the Appellant’s SNAP repayment obligation to be the result of an Unintentional Program Violation (UPV).
- 14) The Appellant requested a Fair Hearing on August 18, 2023, based on the August 02, 2023 Notice of SNAP repayment.

APPLICABLE POLICY

Code of Federal Regulations 7 CFR § 273.9 provides, in part:

§ 273.9 Income and deductions.

(a) Income eligibility standards: Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for SNAP. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for SNAP. Households which are categorically eligible as defined in § 273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(1) The gross income eligibility standards for SNAP shall be as follows:

(i) The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be 130 percent of the Federal income poverty levels for the 48 contiguous States and the District of Columbia.

7 CFR § 273.9(a)(4), provides, in part:

The monthly gross and net income eligibility standards for all areas will be prescribed in tables posted on the FNS web site, at www.fns.usda.gov/snap

7 CFR § 273.12(d), provides, in part:

Failure to report.

If the State agency discovers that the household failed to report a change as required by paragraph (a) of this section and, as a result, received benefits to which it was not entitled, the State agency shall file a claim against the household in accordance with § 273.18. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if the household's benefits are reduced. A household shall not be held liable for a claim because of a change in household circumstances which it is not required to report in accordance with § 273.12(a)(1). Individuals shall not be disqualified for failing to report a change, unless the individual is disqualified in accordance with the disqualification procedures specified in § 273.16.

7 CFR § 273.18, provides, in part:

(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.

There are three types of claims:

An . . .	is . . .
(1) Intentional Program violation (IPV) claim	any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in §273.16.
(2) Inadvertent household error (IHE) claim	any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.
(3) Agency error (AE) claim	any claim for an overpayment caused by an action or failure to take action by the State agency.

West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 provides, in part:

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

WVIMM § 10.2.1 provides, in part:

The need for case maintenance originates from sources including the client, information from other offices or bureaus within the DHHR, and data system matches and case maintenance functions.

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, the appropriate action is taken after advanced notice.

WVIMM § 10.4.2 provides, in part:

All SNAP Assistance Groups (AGs) must report changes related to eligibility and benefit amount at application and redetermination.

WVIMM § 10.4.2.C provides, in part:

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.

WVIMM § 11.2 provides, in 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.

WVIMM § 11.2.3.A provides, in part:

There are two types of UPVs – client error (CE) and agency errors (AE). A CE claim may be established when it is determined that the over-issuance was a result of an unintentional error made by the client. An AE claim may be established when it is determined that the over-issuance was a result of an error made by the Department.

WVIMM § 11.2.3.A.1 provides, in part:

The first month of overissuance is the month the change would have been effective had the agency acted promptly.

WVIMM § 11.2.3.A.2 provides, in part:

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.

WVIMM § 11.2.5.B.1 provides, in part:

The AG is notified of the SNAP claim by computer-generated notification/demand payment letters from the eligibility system. Enclosed with the letter is a repayment agreement, form ES-REPAY-1, and a postage-paid envelope.

DISCUSSION

From November 01, 2016 through November 30, 2017, [REDACTED] was a recipient of SNAP benefits for an AG of one (1). [REDACTED] failed to report that she was married to, and resided with the Appellant during that time. At the time of the hearing, the Appellant testified that he was employed and received earned income at [REDACTED] during the November 2016 through November 2017 repayment time period. The Appellant requested that he be removed as a liable debtor from the total repayment amount because he was unaware that [REDACTED] was receiving SNAP benefits and does not feel he should be responsible for the overpayment. The Appellant requested a fair hearing due to the Department's decision to establish a SNAP repayment claim in the amount of \$1,132 - the remaining balance owed by [REDACTED] prior to her death. It should be noted that at the time of the hearing, the Respondent testified that because the Appellant was unaware [REDACTED] was receiving SNAP benefits, the liable debtor repayment claim was considered an Unintentional Program Violation.

The Appellant did not contest the reason for repayment or the amount of over-issued benefits, but

did argue that he should not be responsible for the repayment since he was unaware that [REDACTED] was even receiving SNAP benefits during that time period. The Appellant further doubted that the SNAP benefits were utilized by the marital household, speculating that [REDACTED] may have bought and prepared food items for her extended family instead. Upon concluding his testimony, the Appellant inquired about the possibility of a dismissal or a reduction in the repayment amount. Because the Board of Review is bound by agency policy and state regulations, this Hearing Officer is unable to grant the Appellant relief by awarding income exclusions or further exceptions beyond the policy provisions.

Pursuant to policy, when an AG has been issued more SNAP than it was entitled, corrective action must be taken by establishing a repayment claim. Policy further stipulates that all adult members of the SNAP AG are equally liable for the repayment amount. The Appellant did not contest the Respondent's determination of meeting the definition of a liable debtor to the repayment claim, and in fact even testified that [REDACTED] should not have excluded him from the SNAP AG at the time of application. While the Appellant's circumstances are unfortunate, and his testimony found to be credible, the Respondent proved by a preponderance of evidence that the Appellant is a liable debtor and responsible for the SNAP repayment amount of \$1,132.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, when an AG has received more SNAP benefits than it was 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) The Appellant's AG received more SNAP benefits than they were entitled to receive from November 01, 2016 through November 30, 2017.
- 3) Because the Appellant and [REDACTED] were married and resided together during the overpayment period of November 01, 2016 through November 30, 2017, he is defined as a liable debtor and is equally responsible for the remaining SNAP over-issuance amount of \$1,132.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to seek repayment from the Appellant in the amount of \$1,132.

ENTERED this _____ day of September, 2023.

Angela D. Signore
State Hearing Officer