



**STATE OF WEST VIRGINIA
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

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

**Christopher G. Nelson
Interim Inspector General**

January 24, 2024



RE: [REDACTED] v. WV DEPARTMENT OF HUMAN SERVICES BUREAU
FOR FAMILY ASSISTANCE
ACTION NO.: 24-BOR-1051

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 Human Services. 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, Investigations and Fraud Management

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

██████████,

Appellant,

v.

Action Number: 24-BOR-1051

**WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES
BUREAU FOR FAMILY ASSISTANCE,**

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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on January 24, 2024, on an appeal filed on January 3, 2024.

The matter before the Hearing Officer arises from the November 28, 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 with Investigations and Fraud Management. The Appellant represented herself. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 SNAP 6 or 12-Month Contact Form received August 29, 2023
- D-2 Case Benefit Summary Screen
- D-3 Bank Statements for February through October 2023
- D-4 Notice of SNAP Termination dated September 25, 2023
- D-5 Notice of SNAP Overissuance dated November 28, 2023
- D-6 West Virginia Income Maintenance Manual §1.4.17.C

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) The Appellant began receiving monthly Social Security benefits of \$1,680.90 in February 2023 (Exhibit D-3).
- 3) The Appellant submitted a SNAP interim contact form to the Respondent on August 29, 2023 (Exhibit D-1).
- 4) The Appellant reported that her income was \$766.60 in disability benefits (Exhibit D-1).
- 5) The Respondent verified the Appellant's receipt of Social Security benefits through its online data exchange with the Social Security Administration and added the income to the Appellant's case.
- 6) The Respondent issued a notice of termination on September 25, 2023, advising the Appellant that her income was excessive to continue receiving SNAP benefits (Exhibit D-4).
- 7) The Respondent determined that the Appellant was ineligible to receive SNAP benefits after the onset of Social Security benefits and established a repayment claim of \$1,967 in SNAP benefits that were issued from April through October 2023 (Exhibit D-5).

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 §273.12 explains SNAP reporting requirements:

(a) Household responsibility to report.

(1) Simplified reporting households are subject to the procedures as provided in [paragraph \(a\)\(5\)](#) of this section.

(5) The State agency may establish a simplified reporting system in lieu of the change reporting requirements specified under [paragraph \(a\)\(1\)](#) of this section. The following requirements are applicable to simplified reporting systems:

(v) **Reporting when gross income exceeds 130 percent of poverty.** A household subject to simplified reporting in accordance with [paragraph \(a\)\(5\)\(i\)](#) of this section, whether or not it is required to submit a periodic report, must report when its monthly gross income exceeds the monthly gross income limit for its household size, as defined at [§ 273.9\(a\)\(1\)](#). The household shall use the monthly gross income limit for the household size that existed at the time of its most recent certification or recertification, regardless of any subsequent changes in its household size.

West Virginia Income Maintenance Manual Chapter 10 explains SNAP reporting requirements:

10.4.2 Client Reporting Requirements

All SNAP assistance groups (AGs) must report changes related to eligibility and benefit amount at application and redetermination. SNAP AGs are subject to limited reporting requirements, and the reporting requirements in this section apply to recipient AGs only.

10.4.2.A Limited Reporting

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.

West Virginia Income Maintenance Manual Chapter 4 explains income:

Appendix A: Income Limits

130% FPL for a one-person assistance group: \$1,580

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.

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

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, regardless of whether the claim is due to agency error or client error. 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 Respondent established a repayment claim against the Appellant when it determined that her income exceeded the allowable limit to receive SNAP benefits due to the onset of Social Security benefits. The income limit for a one-person assistance group to receive SNAP benefits is \$1,580 or 130% of the FPL. The Appellant began receiving \$1,680.90 in Social Security in February 2023 and the Respondent contended that the Appellant failed to report the income, causing the overissuance in SNAP benefits.

The Appellant testified that she called the local office in January 2023 and reported that she would begin receiving Social Security in February 2023 and requested case closure. The Appellant stated she thought her case had been closed until she received notice that the SNAP benefits on her

Electronic Benefit Transfer (EBT) account were dormant and subject to expungement. The Appellant stated she contacted the local office to ensure her EBT balance was correct and was advised that it was. The Appellant was confused as to why she was mailed the SNAP interim contact form, again thinking her SNAP case had been closed. The Appellant completed and returned the interim contact form only to receive the notice of overissuance sometime later.

The Appellant's total combined income of \$2,447.50 exceeded the allowable limit to receive SNAP benefits that were issued from April through October 2023. Policy requires that the assistance group must report when the combined income exceeds 130% of the FPL, the income limit to receive SNAP. Although the Appellant claimed that she reported the income and requested case closure, she did not report the Social Security income on the August 29, 2023, interim contact form.

Regardless of whether the error is the fault of the agency or the recipient, SNAP benefits that were issued in error must be recouped. There is no dispute that the Appellant's income was excessive to receive SNAP benefits during the repayment period, therefore, the benefits issued in error must be repaid.

CONCLUSIONS OF LAW

- 1) 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.
- 2) The Appellant's total countable income of \$2,447.50 exceeded the allowable limit of \$1,580 to receive SNAP benefits.
- 3) The Appellant was ineligible to receive SNAP benefits that were issued from April 2023 through October 2023.
- 4) The Respondent's decision to establish a repayment claim is affirmed.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to establish a repayment claim of Supplemental Nutrition Assistance Program benefits.

ENTERED this 24th day of January 2024.

Kristi Logan
Certified State Hearing Officer