



July 8, 2024

[REDACTED]

RE: [REDACTED] v. WV OIG IFM  
ACTION NO.: 24-BOR-1964

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 Office of the Inspector General and Department of Human Services. 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: Recourse to Hearing Decision  
Form IG-BR-29

cc: Donald Greathouse, Investigations and Fraud Management

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

██████████,

**Appellant,**

v.

**Action Number: 24-BOR-1964**

**WEST VIRGINIA OFFICE OF  
INSPECTOR GENERAL  
INVESTIGATIONS AND FRAUD MANAGEMENT,**

**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 June 18, 2024.

The matter before the Hearing Officer arises from the Respondent's April 5, 2024 decision to implement a Supplemental Nutrition Assistance Program (SNAP) overissuance repayment claim against the Appellant.

At the hearing, the Respondent appeared by Donald Greathouse, Investigations and Fraud Management (IFM). Appearing as a witness for the Respondent was Christina Saunders, IFM. The Appellant appeared and was represented by ██████████ Legal Aid of West Virginia. Appearing as a witness for the Appellant was ██████████ the Appellant's mother. All witnesses were placed under oath and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Benefit Recovery Referral, dated January 4, 2024
- D-2 SNAP Claim Determination Forms
- D-3 PATH Application, submitted February 1, 2023
- D-4 West Virginia Income Maintenance Manual (WVIMM) Chapter 7 excerpts
- D-5 Data Exchange – SSA Benefit Details
- D-6 WVIMM Chapter 3 policy excerpts
- D-7 WVIMM Chapter 3 policy excerpts
- D-8 Case Summary
- D-9 IPACT Marriage Results
- D-10 SNAP Interim Contact Form, dated June 21, 2023

- D-11 Case Comments, dated June 21, 2023 through January 4, 2024
- D-12 SNAP Review Form, scanned on January 3, 2023
- D-13 [REDACTED] Data, prepared by [REDACTED]  
Monthly Payroll Check Report
- D-14 Property Record  
Handwritten Statement
- D-15 WVIMM Excerpts, Chapter 11
- D-16 Code of Federal Regulations Excerpts

**Appellant's Exhibits:**

- A-1 Letter, dated June 12, 2024  
Motion to Reverse Adverse Action  
Case Comments  
Interim Contact Form, received July 25, 2023  
SNAP Review Form, received January 3, 2024  
Medicaid Review Form, dated February 20, 2024  
Letter, received January 30, 2024  
Marriage Certificate  
Hudson v. Bowling Decision  
Email, dated May 10, 2024
- A-2 Case Argument
- A-3 Contested Benefit Recovery Referral
- A-4 SNAP Review Form, submitted January 3, 2024  
Medicaid Review Form, Submitted February 20, 2024
- A-5 Written Statement, received January 30, 2024
- A-6 Marriage Certificate
- A-7 Letter, dated April 23, 2024
- A-8 WVIMM Excerpts, Chapter 3  
Case Comments, highlighted February 24, 2023
- A-9 [REDACTED] Chart Screenprint
- A-10 Amended Consent Decree
- A-11 Common Chapters Manual Excerpts
- A-12 Hudson v. Bowling Decision, filed November 6, 2013
- A-13 Case Comments, dated September 12, 2019, through January 4, 2024

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) On February 1, 2023, the Appellant submitted SNAP application number: [REDACTED] via PATH and provided [REDACTED] as her address (Exhibit D-3).

- 2) The February 1, 2023 SNAP application reflected the AG's household members, including the Appellant; [REDACTED] (Exhibit D-3).
- 3) [REDACTED] is the Appellant's mutual child with [REDACTED]
- 4) The February 1, 2023 SNAP application indicated [REDACTED] was disabled beginning on August 24, 2009 (Exhibit D-3).
- 5) On inquiry of *Receiving Disability benefits from SSA*, regarding [REDACTED] the Appellant marked *Yes* (Exhibit D-3).
- 6) The Appellant was pregnant during her February 1, 2023 application with May 8, 2023 as her expected due date (Exhibit D-3).
- 7) The Appellant did not indicate on her February 1, 2023 application that any household member had earned income (Exhibit D-3).
- 8) On the February 1, 2023 application, under *Other Income*, the Appellant indicated she received \$1,212 monthly from Social Security, beginning on September 3, 2018 (Exhibit D-3).
- 9) On the February 1, 2023 application, under *Other Income Questions*, the Appellant listed [REDACTED] but left sections regarding *room and meals, social security, SSI, other income, SNAP benefits*, and *TANF* benefits blank (Exhibit D-3).
- 10) The Appellant applied an electronic signature to the February 1, 2023 application and certified that all statements had been read by her or read to her and she understood the questions, certified that all information given was true and correct, and that she accepted the responsibilities (Exhibit D-3).
- 11) On February 24, 2023, Department of Human Services (DoHS) Worker [REDACTED] recorded, "provided pay stubs as the last of her income, she will be having surgery and provided a dr statement to acknowledge she will be off 6 weeks post surgery" (Exhibits D-3 and A-1).
- 12) At the time of her February 1, 2023 application, the Appellant was unemployed and was not scheduled for surgery (Exhibits D-3, A-1, and A-9).
- 13) The Appellant, [REDACTED] each received \$1,318 gross monthly RSDI in March 2023 (Exhibit D-5).
- 14) The SSA Benefit Details Beneficiary Earnings and Data Exchange (BENDEX) reflected the Appellant, [REDACTED] each received \$1,360 gross monthly RSDI in March 2024 (Exhibit D-5).

- 15) The Appellant received SNAP benefits for a five-person household from February 1, 2023, through June 30, 2023, and for a six-person household from July 1, 2023, through January 31, 2024 (Exhibit D-2).
- 16) On January 4, 2024, the Respondent received a Benefit Recovery Referral alleging the Appellant's household had received overissued SNAP benefits from February 1, 2023, through August 31, 2023 because of underreported income (Exhibit D-1).
- 17) On April 4, 2024, the Respondent received a Benefit Recovery Referral alleging the Appellant's household had received overissued SNAP benefits from September 1, 2023, through April 4, 2024, because of underreported income and household composition (Exhibit D-1).
- 18) On April 25, 2023, DoHS Worker [REDACTED] recorded, "RSDI income verified through SOLQ" (Exhibit A-13).
- 19) On May 1, 2023, DoHS Worker [REDACTED] recorded "Rec'd change form on PATH Called [Appellant] to discuss the change Left a message asking for a returned call No changes to benefits" (Exhibit A-13).
- 20) On June 8, 2024, DoHS Worker [REDACTED] recorded receipt of verification of newborn [REDACTED] birth (Exhibit A-13).
- 21) On June 21, 2023, DoHS Worker [REDACTED] recorded acceptance of the Appellant's statement for verification of newborn [REDACTED] birth (Exhibit A-13).
- 22) On July 25, 2023, the Appellant submitted her SNAP 6-12 month contact form (hereafter Interim Contact Form) (Exhibit D-10).
- 23) The Interim Contact Form reflected pre-populated information regarding the household composition. The Appellant marked *Yes* that [REDACTED] resided with the Appellant (Exhibit D-10). The Appellant did not list any additional household members (Exhibit D-10).
- 24) On the July 25, 2023 Interim Contact Form, \$2,636 was pre-populated as the amount of the household's unearned income (Exhibit D-10).
- 25) The Appellant checked *No* to the question: *Has the source of your household's gross unearned income changed or has the amount increased or decreased by more than \$125 since you last reported a change?* (Exhibit D-10).
- 26) The Appellant signed that the information supplied on her July 25, 2023 Interim Contact Form was true and correct to the best of her knowledge (Exhibit D-10).
- 27) On July 9, 2023, the Appellant married her spouse, [REDACTED] (Exhibit D-9).

- 28) On August 15, 2023, DoHS Worker [REDACTED] completed a case comment that reflected the Appellant “reported no changes to income or HH expenses No changes to the case” (Exhibit D-11).
- 29) On January 3, 2024, the Appellant submitted her SNAP review form (Exhibit D-12).
- 30) Under *Contact Information*, the Appellant indicated her last name changed from [REDACTED] (Exhibit D-12).
- 31) The Appellant added [REDACTED] as a household member and listed his employment information (Exhibit D-12).
- 32) Under *Tell us about other income*, the Appellant indicated she was no longer receiving monthly unearned income for herself (Exhibit D-12).
- 33) Under *Tell us about other income*, only [REDACTED] was listed as receiving unearned income. No other income changes were reflected on the form (Exhibit D-12).
- 34) The Appellant applied her signature certifying that all statements on the form had been read by her or read to her, that she understood them, and that all information provided was true and correct (Exhibit D-12).
- 35) On January 4, 2024, DoHS Worker EW2543 completed a SNAP phone review with the Appellant, recorded the Appellant’s marriage, added [REDACTED] to the household, requested earned income verification for [REDACTED] and verified through the State Online Query (SOLQ) that “all 3” children have been receiving RSDI (Exhibit D-10).
- 36) On January 30, 2024, the Appellant submitted a handwritten note indicating errors in the Respondent’s income record for the household (Exhibit A-1).
- 37) On June 25, 2014, [REDACTED] began employment at [REDACTED] (Exhibit D-13).
- 38) [REDACTED] employer completed an employment data verification form that indicated the Appellant’s address was listed as [REDACTED] address at the time of employment and did not provide any additional addresses for [REDACTED] (Exhibit D-13).
- 39) [REDACTED] received earned income from July 5 through December 16, 2023 (Exhibit D-13).
- 40) Property records reveal that beginning on January 23, 2022, [REDACTED] owned the Appellant’s residence (Exhibit D-13).
- 41) On February 22, 2023, the Appellant verified that utility accounts for the residence were in her name (Exhibit A-1).

## **APPLICABLE POLICY**

**West Virginia Income Maintenance Manual (WVIMM) § 11.2.3.A *UPV Claims*** provides that there are two types of unintentional program violation (UPV) claims – client errors and agency errors. A UPV claim may be established when an error by the DoHS resulted in the overissuance or when an unintentional error made by the client resulted in the overissuance.

**WVIMM § 1.2.3.A *Worker Responsibilities – General*** provides that during the application process, the Worker has general responsibilities, including informing the client of her responsibilities and ensuring that proper case recordings are made to document the Worker's actions and the reason for such actions.

**WVIMM § 1.2.4 *Client Responsibility*** provides that the client must provide complete and accurate information about her circumstances so that the Worker can make a correct determination about her eligibility.

**WVIMM § 10.4.2 *Client Reporting Requirements*** provides that 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, the AGs authorized representative, 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.

**WVIMM § 10.4.2.A *Limited Reporting*** provides that 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.

**WVIMM § 10.4.2.B.1 *Sources of Information Verified upon Receipt*** provides that 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. Sources considered verified upon receipt include Beneficiary Earnings and Data Exchange (BENDEX) and State Data Exchange (SDX) from the Social Security Administration (SSA), and State On-Line Query (SOLQ).

**WVIMM § 1.2.5 *Intake Interview*** provides that regardless of the program for which the client applies, the Worker has responsibilities when the interview is conducted, including reviewing the form to make certain that the client understood each question and answered to the best of her ability; explaining the applicant's responsibility to provide complete and accurate information and the penalties for failure to do so; and explaining the applicant's reporting requirements.

**WVIMM § 2.1.C *Prolonged Absence from the Home*** provides that regardless of the reason for the absence, any person expected to be absent from the home for a full calendar month or more is not eligible to be included in the Assistance Group (AG). Shorter absences do not affect eligibility. This policy applies to visiting, obtaining vocational training or education, and obtaining medical

care. This policy applies to in-state and out-of-state travel. Although an individual may meet the residence requirement, he may not be eligible to be included in the AG.

**WVIMM §3.2.1(A) *The Assistance Group – Who Must Be Included?*** provides that the SNAP AG must include all eligible individuals who both live together and purchase food and prepare meals together .... When an AG member is absent or expected to be absent from the home for a full calendar month, he is no longer eligible to be included in the AG and must be removed after advance notice.

**WVIMM § 3.2.1.A.2 *Spouses*** provides that spouses are individuals who are legally married to each other under provisions of state law or those moving to West Virginia from states that recognize their relationship as a legal marriage.

**WVIMM § 3.2.1.A.4 *Children under Age 22, Living with a Parent*** provides that 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. There is no required maximum/minimum amount of time the child must spend with a parent for the child to be included in the SNAP AG.

**WVIMM § 3.2.2 *The Income Group*** provides that the income group includes all AG members.

**Code of Federal Regulations 7 CFR § 273.1(b)(1)(i) and (ii) *Special household requirements – Required household combinations*** provide that spouses and children under 22 years of age living with a natural or adoptive parent or step-parent must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household unless otherwise specified.

**Code of Federal Regulations 7 CFR § 273.1(c) *Unregulated situations*** provides that situations not clearly addressed by the provisions of paragraphs (a) and (b) of this section, the State agency may apply its own policy for determining when an individual is a separate household or a member of another household if the policy is applied fairly, equitably and consistently throughout the State.

**Code of Federal Regulations 7 CFR § 273.2(f)(1)(x) *Household composition*** provides that state agencies shall verify factors affecting the composition of a household, if questionable. Individuals who claim to be a separate household from those with whom they reside shall be responsible for proving that they are a separate household to the satisfaction of the State agency.

**Code of Federal Regulations 7 CFR § 273.2(f)(4) *Documentary evidence*** provides that household size and residency may be verified through readily available documentary evidence or through collateral contacts. Documentary evidence consists of a written confirmation of a household's circumstances.

**Code of Federal Regulations 7 CFR § 273.2(f)(5)(i) *Responsibility of obtaining verification*** provides that the household has the primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information.



**Code of Federal Regulations 7 CFR § 273.2(f)(6) *Documentation*** provides that case files must be documented to support eligibility, ineligibility, and benefit level determinations. Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination.

**Code of Federal Regulations 7 CFR § 273.2(f)(7) *State Data Exchange and Beneficiary Data Exchange*** provides that the State agency may verify SSI benefits through the State Data Exchange (SDX) and Social Security benefit information through the Beneficiary Data Exchange (BENDEX) ... The household shall be allowed to verify information from another source if the SDX or BENDEX information is contradictory to the information provided by the household or is unavailable.

**Code of Federal Regulations 7 CFR § 273.2(f)(7) *Office operations- Application processing*** provides that the application process includes filing and completing an application form, being interviewed, and having certain information verified.

**Code of Federal Regulations 7 CFR § 273.2(d)(1)** provides that the interviewer must not simply review the information that appears on the application but must explore and resolve with the household unclear and incomplete information. The interviewer must advise households of their rights and responsibilities during the interview, including the appropriate application processing standard and the household's responsibility to report changes.

**Code of Federal Regulations 7 CFR § 273.18 *Claims against households*** provides that a benefit overpayment claim may be established for Inadvertent household error (IHE) or Agency Error (AE). The claim types are defined as:

IHE – any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.

AE – any claim for an overpayment caused by an action or failure to take action by the state agency.

**Code of Federal Regulations 7 CFR § 273.12(d) *Failure to Report*** provides that if the State agency discovers that the household failed to report a change as required, and as a result, received benefits to which it was not entitled, the State agency shall file a claim against the household.

## **DISCUSSION**

The Respondent implemented a SNAP repayment claim against the Appellant for SNAP benefits, overissued beginning in February 2023. The Respondent contended that the Appellant failed to report [REDACTED] as a household member and did not list unearned income being received for her children. The Appellant contested the repayment claim and argued that she was not required to report [REDACTED] as a member of her residence until January 2024 because he resided outside of the home. The Appellant argued that she accurately reported her children's income and that an agency error resulted in the SNAP benefit overissuance.

The Respondent bears the burden of proof and had to demonstrate by a preponderance of evidence that the Appellant committed a client error, beginning in February 2023, by failing to accurately report her household composition and income. The preponderance of evidence had to demonstrate that [REDACTED] was required to be included as a member of the AG in February 2023 and had to demonstrate that the household was receiving earned and unearned income that the Appellant failed to report.

### **Household Composition**

The Appellant's representative argued that [REDACTED] did not reside in the Appellant's home until January 2024. The policy instructs that any person expected to be absent from the home for a full calendar month or more is not eligible to be included in the Assistance Group (AG). The regulations and policy required the Appellant to accurately report information about her household composition at application and review. The DoHS Worker was required to verify the Appellant's provided statements.

Federal regulations stipulate that the individual claiming to be a separate household from those with whom they reside shall be responsible for proving that they are a separate household to the satisfaction of the agency. While testimony was provided regarding [REDACTED] residing with his father, no evidence was submitted to corroborate the Appellant's claim that [REDACTED] was residing at an address other than the Appellant's residence.

Verification completed by [REDACTED] employer reflected his address as the Appellant's address during his employment. Although the Appellant reported making the housing and utility payments, the property records revealed that [REDACTED] owned the Appellant's residence and had one mutual child with the Appellant who resided in the home before her February 2023 SNAP application.

The submitted documentary evidence revealed that at the time of the Appellant's February 1, 2023 application, [REDACTED] owned the Appellant's residence and shared a mutual child with the Appellant who resided in the Appellant's home. Without corroborating evidence to support that [REDACTED] resided outside of the Appellant's residence, the regulations and policy stipulate that [REDACTED] was required to be included in the Appellant's AG. The evidence further revealed that during the July 25, 2023 eligibility review, the Appellant was married to [REDACTED] and resided with their two mutual children; however, the Appellant failed to report [REDACTED] in her household and omitted his earned income.

### **Income**

Pursuant to the policy, the Appellant was required to report correct information about her circumstances at the application and eligibility review so that the Worker could make a correct decision about her eligibility. The DoHS Worker was required to inform the Appellant of her income reporting responsibilities at the application and each eligibility review. The regulations require the DoHS Worker to provide accurate case recordings so that a reviewing party may understand the Worker's actions.

The evidence revealed that on February 1, 2023, the Appellant applied for SNAP benefits for herself and her four minor children. On the application, the Appellant indicated her daughter, [REDACTED] was disabled and received disability benefits from SSA. The Appellant provided unearned

income information for herself. The application reflected that the Appellant's children were listed under *other income information*, but the information boxes were left blank.

The Respondent argued that the Appellant also failed to accurately report her income and household composition information on subsequent review forms. The Appellant was required to report accurate information about her household's unearned income on her Interim Contact Form. The Appellant indicated on her Interim Contact Form that her household's unearned income had not increased or decreased from \$2,636 by more than \$125. The evidence revealed that the Appellant was receiving more than this amount of unearned income at the time she completed the Interim Contact Form.

At application, the DoHS Worker must review the information supplied on the form, ensure the Appellant understood each question and answered to the best of her ability, explain the Appellant's reporting requirements and responsibility to accurately report information, and ensure that proper case recordings are made to document the Worker's actions and the reason for such actions. The preponderance of the evidence revealed that the Respondent failed to comply with these responsibilities. However, the evidence revealed that the agency's error occurred after the Appellant's initial client error.

Federal regulations stipulate that the household has the primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information. The federal regulations permit the state agency to verify the household's income through data exchanges. The policy stipulates that the information obtained from these data exchanges is considered verified upon receipt and does not require additional verification.

The Appellant did not present any documentary evidence to establish that the Appellant's children were not receiving unearned income at the time of her application and review. The preponderance of evidence revealed that Children [REDACTED] received unearned income and the Appellant failed to report the income on her application and review forms. Further, no documentary evidence was submitted to verify that [REDACTED] should have been omitted from the Appellant's February 2023 SNAP application because he resided elsewhere for more than a calendar month. As [REDACTED] was required to be included in the AG, his income should have been considered when determining the AG's eligibility.

### **Case Errors**

The evidence submitted by the Appellant refuted the DoHS Worker's documentation of the Appellant's February 2023 eligibility interview. The preponderance of evidence revealed that the Appellant was not employed in February 2023 and that the DoHS Worker recorded incorrect earned income information for the Appellant. The February 2023 case comments do not indicate that the DoHS worker completed a mandatory verification of gross income at the time of the Appellant's February 2023 SNAP eligibility interview.

Because the evidence revealed the DoHS Worker failed to accurately document the Appellant's eligibility interview or notify the Appellant of her change reporting requirements, the Respondent's arguments regarding the Appellant's failure to report when the household's income exceeded the applicable eligibility limit were given little weight. The policy reflects the

Appellant's responsibility to report household changes and inaccuracies at application and review. The preponderance of evidence established that the Appellant failed to report her household composition and income accurately at application and review, therefore, the Respondent's decision to implement a SNAP overissuance repayment claim against the Appellant due to client error is affirmed.

While the evidence revealed that the initial error that resulted in SNAP overissuance, the Respondent should take note of the federal and policy requirement for the DoHS Worker to effectively document the Appellant's record in such detail to permit a reviewer to determine the reasonableness and accuracy of the determination. As the evidence revealed the DoHS Worker committed agency errors after the Appellant's client error at application, the Respondent should note the regulatory requirement to not simply review the information that appears on the application but to also explore and resolve with the household any unclear or incomplete information.

### **CONCLUSIONS OF LAW**

- 1) A repayment claim may be established when a household has received more SNAP benefits than they were entitled to because of a client or agency error.
- 2) The preponderance of evidence revealed that in February 2023, the Appellant resided in a home owned by [REDACTED] with their mutual child.
- 3) The preponderance of evidence revealed that the Appellant committed a client error when she failed to report [REDACTED] as a member of her household in February and July 2023.
- 4) The preponderance of evidence revealed that in February and July 2023, the Appellant committed a client error when she failed to report earned income for [REDACTED] and unearned income for [REDACTED] on her SNAP application and review form.
- 5) Because the Appellant failed to accurately report her household composition and income on her February 2023 SNAP application, the Respondent was unable to make a correct determination regarding the Appellant's SNAP eligibility and entitlement amount and issued the Appellant more SNAP benefits that she was entitled to receive, beginning in February 2023.
- 6) Because the household received more SNAP than it was entitled to receive, the Respondent correctly implemented a SNAP benefit overissuance repayment claim.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to implement a SNAP benefit repayment claim for overissued SNAP benefits received due to the Appellant's February 2023 client error.

**ENTERED this 8<sup>th</sup> day of July 2024.**

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