



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

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

**Christopher G. Nelson
Interim Inspector General**

January 08, 2024



Re: [REDACTED] v WV DHS
ACTION NO.: 23-BOR-3480

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. 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: Lisa Snodgrass, Investigations and Fraud Management

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

[REDACTED],
Appellant,

v.

ACTION NO.: 23-BOR-3480

**WEST VIRGINIA DEPARTMENT OF
HEALTH 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 [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia (WV) Office of Inspector General Common Chapters Manual. This fair hearing was convened on December 14, 2023, on an appeal filed November 20, 2023.

The matter before the Hearing Officer arises from the November 16, 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 Lisa Snodgrass, 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 Department of Human Services (DHS) Notice of SNAP Overissuance, dated November 16, 2023
- D-2 WV DHS Notice of SNAP Review, dated November 21, 2022
- D-3 WV DHS PATH eligibility system printout of Case Comments, dated December 16, 2022 through January 04, 2023
- D-4 Maternity Leave Notice, dated December 29, 2022
- D-5 WV DHS Notice of Decision(s), dated January 04, 2023
- D-6 WV DHS Notice of Quality Control Error Findings, dated July 17, 2023
- D-7 Employment Verification from [REDACTED]
- D-8 WV DHS PATH eligibility system printout of Case Comments, dated June 09 - November 20, 2023

- D-9 WV DHS PATH eligibility system printout of Employee Wage Data for [REDACTED], and WV DHS PATH eligibility system printout of Employee Wage Data for [REDACTED]
- D-10 WV DHS Food Stamp Claim Determination and Food Stamp Claim Calculation Sheet, dated February 2023 through June 2023; WV DHS PATH eligibility system printout of Case Benefit Summary for [REDACTED] retrieved November 15, 2023
- D-11 WV DHS SNAP Income Chart
- D-12 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.4 through 1.2.5, 4.4 through 4.4.1.B, 11.2.3.A.2, 11.2.3.B, 10.4.2.C, 10.4.2.D, 10.4.1, 10.4.1.A, 10.4.1.B, 10.4.2, 4.4.3, and 4.4.3.A

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 Supplemental Nutrition Assistance Program (SNAP) benefits for a four (4) person Assistance Group (AG). (Exhibit D-2)
- 2) On December 12, 2022, the Appellant submitted a SNAP Review form reporting a biweekly total household income of \$1,167.76. (Exhibit D-3)
- 3) The Appellant signed the Rights and Responsibilities (R&R) form on December 12, 2022 acknowledging the understanding that he was responsible for the repayment of over-issued SNAP benefits whether due to his own error or that of the agency. (Exhibit D-2)
- 4) On or before December 16, 2022, [REDACTED] began unpaid maternity leave from [REDACTED]. Paid vacation time was used during [REDACTED] maternity leave. (Exhibit D-4)
- 5) The Appellant began receiving earned income from employment at [REDACTED] on January 02, 2023. (Exhibit D-6)
- 6) A telephone interview was conducted on January 03, 2023. At that time, the Appellant reported no household income. (Exhibit D-3)
- 7) The Appellant failed to report new employment at [REDACTED] paid vacation time to the Respondent during the January 03, 2023 telephone interview. (Exhibit D-6)
- 8) On an unknown date in July 2023, a Quality Control Review was performed on the Appellant's case. (Exhibit D-4)

- 9) As a result of the review, a repayment referral was received from the Quality Control Unit alleging the Appellant received an over-issuance of SNAP benefits in the amount of \$4,228 for the months of February 01, 2023 through June 30, 2023, due to unreported income. (Exhibit D-1)
- 10) On November 16, 2023, the Respondent issued a notice advising the Appellant that a “client error” SNAP repayment claim had been initiated in order to recoup the over-issuance of SNAP benefits for the time period of February 01, 2023 through June 30, 2023 due to the Appellant’s failure to report employment income. (Exhibits D-3, and D-6 through D-10)
- 11) On November 20, 2023, the Appellant requested a Fair Hearing based on the November 16, 2023 Notice of SNAP repayment.
- 12) The Respondent alleged the Appellant made false statements regarding his and income and received SNAP benefits for which he was not entitled to receive.
- 13) The Appellant earned a 2023 first quarter income of \$6,127.50. (Exhibit D-9)
- 14) earned quarterly incomes of: \$6,803.35 for 4th quarter 2022; \$4,048.20 for 1st quarter 2023; \$1,050, \$4,375.80, and \$4,007.3 for 2nd quarter 2023; \$750.00 and \$7,728.08 for 3rd quarter 2023. (Exhibit D-9)
- 15) The Appellant did not dispute the Respondent’s income calculation or repayment amount.

APPLICABLE POLICY

The 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.

7 CFR 273.18(a) (a) provides, in part:

(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.

7 CFR 273.18(e)(4) provides, in part:

(4) Repayment agreements.

(i) Any repayment agreement for any claim must contain due dates or time frames for the periodic submission of payments.

(ii) The agreement must specify that the household will be subject to involuntary collection action(s) if payment is not received by the due date and the claim becomes delinquent.

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 § 1.6.10 provides, in part:

The IEVS provides the DHHR with additional sources of information for use in determining eligibility and the amount of the benefit for applicants and clients. This information is provided to the Worker through data exchanges.

WVIMM § 6.1.2 provides, in part:

The IEVS provides the DHHR with additional sources of information for use in determining eligibility and the amount of the benefit for applicants and clients. This information is provided to the Worker through data exchanges.

Through the eligibility system, DHHR staff receive information obtained through data exchanges with other governmental agencies. The IEVS procedures ensure that appropriate Internal Revenue Service (IRS) privacy and procedural safeguards are applied in the use of the information. The same precautions with privacy and procedural safeguards apply to information received through the FDH.

Information obtained through IEVS is used for the following purposes:

- To verify the eligibility of the assistance group (AG)
- To verify the proper amount of benefits
- To determine if the AG received benefits to which it was not entitled

To obtain information for use in criminal or civil prosecution based on receipt of benefits to which the AG was not entitled. Federal regulations require use of the following data exchanges that are provided using the IEVS:

- WorkForce West Virginia
- Wage and unemployment compensation information (UCI) data is available.
- Internal Revenue Service (IRS) – Unearned income data is available.
- Social Security Administration (SSA) – Retirement, Survivors and Disability Insurance (RSDI), Supplemental Security Income (SSI),

and net earnings from self-employment data are available.

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.B.2 provides, in part:

The following are considered reported changes for SNAP and require follow up and/or action for all AGs:

- Information received from any source that the client was required to report.

Information Requiring Reporting Example: A report is received from Quality Control (QC) that the income of a SNAP AG exceeds the gross limit. The information is acted on because the client is required to report it.

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 § 10.4.3.B provides, in part:

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 failed to report in a timely manner, and this is the only reason the change could not be made within 13 days for the advance notice period.

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 § 11.2.5.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

On an unknown date, July 2023, a Quality Control Review was performed on the Appellant's case. As a result of the review, a repayment referral was received from the Quality Control Unit alleging the Appellant received an over-issuance of SNAP benefits in the amount of \$4,228 for the months of February 01, 2023 through June 30, 2023, due to unreported income. On November 16, 2023, the Respondent issued a "*client error*" SNAP repayment claim in the amount of \$4,228 to the Appellant in order to recoup the over-issuance of SNAP benefits for the February through June 2023 time period. Pursuant to policy, when an Assistance Group (AG) receives more SNAP benefits than it was entitled to receive, a repayment claim is established to recoup the overpayment. The Respondent must demonstrate by a preponderance of evidence that it correctly followed the policy when establishing a repayment claim against the Appellant.

The Respondent testified that on January 03, 2023, at the time of the Appellant's telephone review, the Appellant failed to report income for himself and [REDACTED]. The Respondent argued that on or before December 16, 2022, when [REDACTED] began maternity leave from [REDACTED] because maternity leave was not paid by the employer, [REDACTED] utilized paid vacation time and failed to report the wages to the Department. The Respondent further testified that additionally, [REDACTED] also failed to report new employment with [REDACTED], beginning January 02, 2023. The Respondent argued that, because the Appellant did not report his or [REDACTED] wages, the Appellant received SNAP benefits he was not entitled. However, the Respondent clarified that because the Appellant's review was not completed until January 03, 2023, January's SNAP benefits should have also been included in the repayment amount. It should be noted that upon reviewing the evidence provided by the Respondent, there is a discrepancy for June 2023 SNAP entitlement. The "Actual Entitlement" listed on Exhibit D-10: Food Stamp Claim Determination Sheet lists an amount of \$377, while the Food Stamp Claim Calculation Sheet for June 2023 lists an amount of \$939. However, when reviewing the Case Benefit Summary, it appears the Appellant's actual benefit issuance amount of \$377 was correctly calculated by the Respondent when issuing the November 16, 2023 Notice of SNAP repayment.

The Appellant did not contest the income calculations or the months/amount of repayment. The

Appellant testified that there seemed to be a miscommunication. He explained that, at the time of the review, when the Department Worker questioned him about [REDACTED] maternity leave, he reported [REDACTED] as being on unpaid maternity leave since the employer did not offer paid maternity leave. The Appellant explained further that he did not realize what was actually asked of him or else he would have been more forthcoming and reported [REDACTED] paid vacation time wages. Additionally, the Appellant testified that he did not recall reporting zero income and testified that he “thought everything had been turned in.” The Respondent explained that case comments entered by the Department Worker at the time of the review cite the Appellant having only reported [REDACTED] unpaid maternity leave. The Respondent further elaborated that, because [REDACTED] was the only reported income for the AG, and because the Appellant failed to mention the start of his employment at [REDACTED], it could be concluded that the household had a zero income. Further, the Respondent argued, the Notice(s) of Decision issued to the Appellant on January 04, 2023 also listed a \$0 income.

Policy stipulates when an AG has been issued more SNAP benefits than it was entitled to receive, regardless of whether by *client error* or *agency error*, corrective action must be taken by establishing a repayment claim for the over-issued SNAP benefits. Because the Appellant failed to report that [REDACTED] was receiving wages while on maternity leave from her employer, along with the inception of his employment with [REDACTED], the Respondent was not able to make a correct determination about the Appellant’s SNAP eligibility and benefit allotment. As established by the evidence, at no time during the Appellant’s SNAP review or during the various exchanges with the Department, does the record reflect a reported change to the AG’s income. In fact, it reflects a reported \$0 income. Once the Respondent determined the AG received SNAP benefits it was not entitled to receive, the Respondent acted in accordance with the policy to establish a “*client error*” SNAP repayment claim for the over-issuance of benefits from January 01, 2023 through June 30, 2023.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, when an assistance group has received SNAP benefits that it was not 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) Because the Appellant failed to report his employment income at the time of his review, the Respondent was not able to make a correct determination about the Appellant’s SNAP eligibility and benefit allotment. the Appellant’s AG received more SNAP benefits than they were entitled to receive.
- 3) Because the Respondent was not able to make a correct determination about the Appellant’s SNAP eligibility and benefit allotment, the Appellant’s AG received more SNAP benefits than they were entitled during the time period of January 01, 2023 through June 30, 2023.
- 4) Because the Appellant’s AG received more SNAP benefits than they were entitled, the Respondent acted correctly to initiate a repayment claim to recoup SNAP benefits over-issued to the AG from January 01, 2023 through June 30, 2023.
- 5) Because the overissuance of SNAP benefits was caused by the Appellant failure to report the AG’s employment income, the Respondent acted in accordance with policy to establish the repayment as a “*client error*”.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to establish a *client error* repayment claim against the Appellant for Supplemental Nutrition Assistance Program benefits issued from January 01, 2023 through June 31, 2023 for which he was not eligible to receive.

ENTERED this 8th day of January 2024.

Angela D. Signore
State Hearing Officer