



March 6, 2025

**REMOVED**

RE: **REMOVED** v. OIG/INVESTIGATIONS AND FRAUD MANAGEMENT  
ACTION NO.: 25-BOR-1309

Dear **REMOVED**

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,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

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

cc: Jake Wegman, Assistant Attorney General

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

**REMOVED**

**Appellant,**

**v.**

**Action Number: 25-BOR-1309**

**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 **REMOVED**. 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 February 27, 2025, on an appeal filed February 7, 2025.

The matter before the Hearing Officer arises from the December 5, 2024 decision by the Respondent to establish a repayment claim for Supplemental Nutrition Assistance Program (SNAP) benefits from the Appellant.

At the hearing, the Respondent appeared by Jake Wegman, Assistant Attorney General. Appearing as a witness for the Respondent was Lisa Snodgrass, Repayment Investigator. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 WV PATH Application for SNAP assistance dated August 28, 2024
- D-2 Case Comments dated September 11, 2024
- D-3 Social Security Administration Benefit Verification Letters
- D-4 Case Comments dated September 2024 through October 2024
- D-5 Computer printout of Unearned Income
- D-6 Case Comments dated October 2024 through November 2024
- D-7 SNAP Budget screen
- D-8 Food Stamp Claim Determination
- D-9 Employee Wage Data
- D-10 West Virginia Income Maintenance Manual Chapter 10 Appendix A Income Chart

**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) On August 28, 2024, the Appellant submitted a WV PATH application to determine her eligibility for SNAP assistance. (Exhibit D-1)
- 2) The Appellant reported seven individuals in her household, including her grandmother. (Exhibit D-1)
- 3) The Respondent pended the Appellant's SNAP application for verification of her grandmother's income from the Social Security Administration (SSA), entering \$1.00 as the benefit amount.
- 4) The Respondent determined that a discrepancy existed with the grandmother's Social Security Number and name between multiple assistance cases in its eligibility system.
- 5) On October 1, 2024, the Respondent approved the Appellant's SNAP application in error with the SSA income remaining at \$1.00. (Exhibit D-6)
- 6) On October 23, 2024, the Respondent discovered the error, corrected the discrepancy regarding the social security number, and entered \$1220.00 as a monthly SSA benefit for the Appellant's grandmother. (Exhibit D-6)
- 7) Based on the revised income, the Appellant's SNAP benefits were terminated effective November 30, 2024.
- 8) The Appellant was approved for SNAP benefits in error in the amount of \$533.00 for the time period August 2024 through November 2024. (Exhibit D-7)
- 9) The agency error resulted in an Unintentional Program Violation. (UPV)
- 10) The Respondent issued notice to the Appellant on December 5, 2024, advising that a repayment claim had been established to recoup the SNAP benefits issued in error from August 2024 through November 2024, in the amount of \$533.00.

## **APPLICABLE POLICY**

Code of Federal Regulations Title 7 §273.1(b) documents:

### ***Special household requirements —***

(1) ***Required household combinations.*** The following individuals who live with others 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.

(i) **Spouses;**

(ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); and

(iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult.

Code of Federal Regulations Title 7 §273.18 documents:

### **(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 traffics 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 unless the claim is agency error, then apply the earned income deduction.
  - (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.

West Virginia Income Maintenance Manual Chapter 11.2 documents:

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.

West Virginia Income Maintenance Manual Chapter 11.2.3 documents:

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

There are two types of UPVs—client errors and agency errors. A UPV claim may be established when:

- An error by the Department of Human Services (DoHS) 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 DoHS'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 DoHS issued duplicate benefits and the overissued amount was not returned
- The DoHS 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.

#### West Virginia Income Maintenance Manual Chapter 11.2.3.A.1 documents

*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.

#### West Virginia Income Maintenance Manual Chapter 11.2.5

Collection action is initiated against the AG that received the overissuance. When the AG composition changes, collection is pursued against any and all AGs that include a liable debtor. The following persons are equally liable for the total amount of the overpayment and are liable debtors:

- Adult or emancipated minors in the AG
- Disqualified individuals who would otherwise be required to be included
- An unreported adult who would have been required to be in the AG had he been reported
- Sponsors of noncitizen AGs when the sponsor is responsible for the overpayment
- An authorized representative of an AG if he is responsible for the overpayment

For AGs containing a liable debtor that are certified at the time the claim is established, collection activity may begin by recoupment, after the notice period expires. Recoupment by benefit allotment reduction is mandatory for all claims when a liable debtor is certified for SNAP. The eligibility system automatically begins recoupment and posts these payments to the claim.

#### West Virginia Income Maintenance Manual Chapter 11.2.6 documents:

The minimum amount of repayment is determined as follows.

##### **UPV Client and Agency Errors**

##### **Current Recipients**

The current benefit entitlement is reduced by 10% or \$10, whichever is greater.

##### **Former Recipients**

Lump Sum Payment: One payment is made to pay the claim in its entirety.

Installment Payments: When the AG is financially unable to pay the claim in one lump sum, regular monthly installment payments are accepted. The minimum amount of the monthly payment is \$50.

#### West Virginia Income Maintenance Manual Chapter 3.2.1 A documents:

The SNAP AG must include all eligible individuals who both live together and purchase food and prepare meals together, with the exception of residents of shelters for battered persons. An individual cannot be a member of more than one SNAP AG in any month. When an AG member is absent or is 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.

West Virginia Income Maintenance Manual Chapter 10.4.3.B documents:

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. See Chapter 11 for benefit repayment.

### **DISCUSSION**

In December 2024, the Respondent established a repayment claim against the Appellant seeking the recoupment of overissued SNAP benefits due to an agency error. The Appellant contests the repayment of SNAP benefits contending that her household should not be responsible for an agency error repayment claim. The Respondent must prove by a preponderance of the evidence, that the Appellant was overissued SNAP benefits for which her household was not entitled to receive.

Governing policy mandates that when an assistance group (AG) has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or an 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. A UPV claim may be established when an error by the Department of Human Services (DoHS) resulted in the overissuance.

At application, the Appellant added her grandmother to her household which prompted additional verification of the grandmother's unearned income from the SSA. Prior to receiving the additional information, the Respondent approved the Appellant's SNAP benefits, in error, with an incorrect amount of income attributed to the grandmother. The error resulted in an overissuance of SNAP benefits in the amount of \$533.00 from August 2024 through November 2024. The Respondent determined that this agency error was an UPV and sought recoupment of the overissued SNAP benefits.

The Appellant acknowledged outlined policy that required repayment of overissued SNAP benefits due to an agency error. The Appellant contends that the Respondent was aware of the error in October 2024 (Exhibit D-6) and failed to terminate her benefits prior to November 2024. The Respondent refuted that the timeliness of the discovery and closure of the advance notice period for notification of a decrease prevented the termination of benefits for November 2024. The Appellant testified that the repayment of the SNAP benefits would create an additional financial

hardship on her household.

Evidence is clear that the Respondent erroneously approved the Appellant's monthly SNAP allotment without verifying the household's total available income. A proper eligibility determination of the Appellant's household would have resulted in a denial of SNAP benefits due to excessive income. However, the agency error created an overissuance of SNAP benefits to the household for which it was not entitled. Policy is clear that a repayment claim may be established in the event that an agency error resulted in the overissuance. Whereas SNAP benefits were issued in error and must be recouped; the Respondent acted in accordance with policy and federal regulations in establishing a repayment claim against the Appellant.

### **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, regardless of whether the claim is due to an agency error or client error.
- 2) The Respondent incorrectly determined the Appellant's financial eligibility for SNAP benefits.
- 3) The agency error resulted in an overissuance of SNAP benefits for which the household was not entitled to receive.
- 4) Policy is clear that agency errors may result in the recoupment of overissued SNAP benefits.
- 5) The Respondent's decision to establish a repayment claim of overissued SNAP benefits against the Appellant 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 overissued SNAP benefits against the Appellant.

**ENTERED this \_\_\_\_\_ day of March 2025.**

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**Eric L. Phillips  
State Hearing Officer**