



April 2, 2025

[REDACTED]

RE: [REDACTED] v. WV DoHS/BFA  
ACTION NO.: 25-BOR-1121

Dear Mr. [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 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 Thompson, MLS  
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**

[REDACTED],

**Appellant,**

**v.**

**Action Number: 25-BOR-1121**

**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 [REDACTED]. 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 March 6, 2025.

The matter before the Hearing Officer arises from the Respondent's December 2024 decision regarding the Appellant's Supplemental Nutrition Assistance Program (SNAP) repayment delinquency and proposed referral to Federal collection action.

At the hearing, the Respondent appeared by Jake Wegman, Assistant Attorney General. Appearing as a witness for the Respondent was Lisa Snodgrass, Investigations and Fraud Management. The Appellant appeared pro se and testified on his own behalf. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 LIEAP and SNAP Claim Notices: October 2, November 4, and December 3, 2024; January 3, and February 4, 2025
- D-2 Claim Detail screenprints
- D-3 Referral Claim Comments, dated October 7, December 12, and December 19, 2024
- D-4 Referral/Claim Comments, dated September 9, 2024
- D-5 West Virginia Income Maintenance Manual (WVIMM) Chapter 11 excerpts
- D-6 Decision of State Hearing Officer in Board of Review Action No.: 24-BOR-2580
- D-7 Common Chapters Manual excerpt
- D-8 West Virginia Code § 16B-2-2 excerpt
- D-9 West Virginia Code § 29A-5-4 excerpt

### **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 June 19, 2024, the Respondent implemented a SNAP repayment claim for SNAP benefits overissued to the Appellant from January 7 through 31, 2020; February 1 through March 31, 2021; and March 1 through October 31, 2023. The Appellant appealed the Respondent's decision to seek SNAP overissuance repayment (Exhibit D-6).
- 2) On September 9, 2024, in BOR Action No.: 24-BOR-2580, a decision was issued regarding the Respondent's June 19, 2024 SNAP repayment claim against the Appellant. The Respondent's decision to seek repayment for SNAP issued to the Appellant from January 7 through 31, 2020 and February 1 through March 31, 2021, was reversed. The Respondent's decision to seek repayment for SNAP issued between March and October 2023 was remanded for recalculation of the owed amount based on the correct assistance group (AG) income and household size for the period.
- 3) On September 9, 2024, the Respondent recalculated the Appellant's SNAP repayment claim and determined that the amount of the \$2,962 SNAP overissuance claim was unaffected by the corrected calculation (Exhibit D-4).
- 4) The Respondent did not issue a written notice of claim calculation after the September 9, 2024 SNAP claim recalculation.
- 5) The Respondent resumed issuing payment demand notices based on the initial June 19, 2024 SNAP repayment claim.
- 6) The Respondent issued notices to the Appellant from October through December 2024 and January through February 2025 advising that the AG did not make the agreed upon monthly payment toward the SNAP claim and that the balance owed was \$2,962 (Exhibit D-1).
- 7) The notices instructed, "If you have not entered into a repayment agreement and wish to do so, please contact the worker listed above" (Exhibit D-1).
- 8) The notices instruct that the failure to make regular agreed upon monthly payments on the claim could result in legal action to collect the debt by being sent to collection agencies or referral to the Federal government for offsetting the Appellant's federal income tax refund and other federal benefits (Exhibit D-1).

- 9) The Respondent considered the Appellant to be delinquent on repayment retroactively to June 2024.
- 10) On October 7, 2024, Respondent Worker [REDACTED] received an email to contact the Appellant and attempted to call the Appellant but his voicemail was full (Exhibit D-3).
- 11) On December 12, 2024, the Respondent received a call from [REDACTED] (hereafter Mrs. [REDACTED]), the Appellant's wife, and forwarded the call to a supervisor (Exhibit D-3).
- 12) On December 19, 2024, the Respondent returned Mrs. [REDACTED] call. The Respondent's worker [REDACTED] recorded, "explained payments and repayment agreement" (Exhibit D-3).

### **APPLICABLE POLICY**

**Code of Federal Regulations 7 CFR § 273.15(q)(2) *Hearing Decisions*** provides that a decision by the hearing authority shall be binding on the State agency and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and pertinent Federal Regulations. The decision shall become a part of the record.

**Code of Federal Regulations 7 CFR § 273.15(s)(2) *Implementation of Final State level agency decisions*** provides that when the hearing authority upholds the State agency's action, a claim against the household for any overissuance shall be prepared in accordance with § 273.18.

**Code of Federal Regulations 7 CFR § 273.18(1)(i) *Claims against households*** provides that a recipient claim is an amount owed because benefits are overpaid.

**Code of Federal Regulations 7 CFR § 273.18(e) *Initiating collection action and managing claims*** provides:

- (1) ***Applicability.*** State agencies must begin collection on all claims ...
- (3) ***Notification of claim.***
  - i. Each State agency must develop and mail or otherwise deliver to the household written notification to begin collection on any claim.
  - ii. The claim will be considered established for tracking purposes as of the date of the initial demand letter or written notification.
  - iii. If the claim or the amount of the claim was not established at a fair hearing, the State agency must provide the household with a one-time notice of adverse action. The notice of adverse action may either be sent separately or as part of the demand letter.
  - iv. The initial demand letter or notice of adverse action must include language stating:
    - A. The amount of the claim.
    - B. The intent to collect from all adults in the household when the overpayment occurred.

- C. The type (IPV, IHE, AE, or similar language) and reason for the claim.
- D. The time period associated with the claim.
- E. How the claim was calculated.
- F. The phone number to call for more information about the claim.
- G. That, if the claim is not paid, it will be sent to other collection agencies, who will use various collection methods to collect the claim.
- H. The opportunity to inspect and copy records related to the claim.
- I. Unless the amount of the claim was established at a fair hearing, the opportunity for a fair hearing on the decision related to the claim. The household will have 90 days to request a fair hearing.
- J. That, if not paid, the claim will be referred to the Federal government for federal collection action.
- K. That the household can make a written agreement to repay the amount of the claim prior to it being referred for Federal collection action.
- L. That, if the claim becomes delinquent, the household may be subject to additional processing charges.
- M. That the State agency may reduce any part of the claim if the agency believes the household is not able to repay the claim.
- N. A due date or time frame to either repay or make arrangements to repay the claim, unless the State agency is to impose allotment reduction.
- O. If allotment reduction is to be imposed, a due date or time frame to either repay or make arrangements to repay the claim in the event that the household stops receiving benefits.
- P. If allotment reduction is to be imposed, the percentage to be used and the effective date.

**West Virginia Income Maintenance Manual (WVIMM) § 11.2** provides that when an assistance group (AG) has been issued more SNAP benefits than it was entitled to receive, correction action is taken by establishing an Unintentional Program Violation (UPV) or Intentional Program Violation (IPV).

**WVIMM § 11.2.5 *Collecting the Claim*** provides that collection action is initiated against the AG that received the overissuance.

**WVIMM § 11.2.5.B.1 *Claim Notification —UPV Claims*** provides that the AG is notified of the SNAP claim by computer-generated notification/demand payment letters from the eligibility system. Enclosed with the letter is the repayment agreement, form ES-REPAY-1, and a postage-paid envelope.

**WVIMM § 11.2.7 *Right to a Fair Hearing*** provides that if the client requests a Fair Hearing within 30 days, the Worker stops collection until after the Fair Hearing is completed. Any

adjustments in the amount of the claim, required by the Fair Hearing decision, are made after the decision.

## **DISCUSSION**

The Appellant disputed the Respondent's determination of his payment delinquency and the proposed referral to Federal collection action. The Appellant argued that he did not receive notice of the recalculated SNAP repayment amount after the September 9, 2024 Board of Review *Decision*, and only received notice of his payment delinquency. The Appellant argued that he did not have an opportunity to enter into a repayment agreement after the Respondent's March through October 2023 SNAP repayment claim was recalculated. The Respondent's witness testified that the Appellant was issued required notice in June 2024 and that the Appellant had opportunity to enter a repayment agreement at that time.

Before a client is referred to Federal collection for SNAP claim delinquency, the policy provides that the household must be provided with written notice of the claim amount and be provided with an opportunity to enter into a written repayment agreement. To demonstrate that the Appellant was delinquent on his SNAP repayment claim, the Respondent had to demonstrate by a preponderance of evidence that the Appellant was properly notified of his SNAP repayment claim amount and had an opportunity to enter a repayment agreement.

During the hearing, the Respondent's witness explained how the Appellant's SNAP claim was recalculated. The Appellant did not dispute the Respondent's recalculation. Because consideration of the correct household income and AG size did not affect the AG's \$0 monthly SNAP allotment entitlement from March to October 2023, the amount of the SNAP repayment claim was unaffected. The preponderance of evidence revealed that on September 9, 2024, the Respondent correctly determined the Appellant's \$2,962 March through October 2023 SNAP repayment claim amount using the correct AG information.

### **Notification of Claim**

The Respondent's policy instructs that the Worker must stop repayment claim collection until after the Fair Hearing is completed. The evidence revealed the Appellant requested a fair hearing disputing the initial SNAP repayment claim, and the collection stopped until after the hearing was completed. After the hearing decision, the policy requires the Respondent to make the adjustments in the amount of the claim required by the fair hearing decision.

The regulations provide that when the hearing authority upholds the State agency's action, a claim against the household for any overissuance shall be prepared according to 7 CFR § 273.18. This regulatory section stipulates that the Respondent must mail written notice to begin collection on the claim. Pursuant to the regulations, if the amount of the claim was not established at the fair hearing, the Respondent must provide the household with a notice of adverse action. The regulations provide that unless the amount of the claim is established at a fair hearing, the adverse notice must include the opportunity for a fair hearing on the decision related to the claim.

The evidence revealed that the Respondent did not correctly decide the SNAP repayment claim amount until September 9, 2024, when the Respondent used the correct amount of household members and income to determine the amount of the claim. Although the Respondent's new calculation resulted in the same outcome as the Respondent's calculation made with erroneous information, the new calculation constitutes a new decision regarding the SNAP repayment claim amount and is subject to SNAP repayment claim notification procedures.

The regulations provide that the notice of adverse action may be sent separately or as part of the collection demand letter. As the amount of the claim was not established at the fair hearing and recalculation of the amount of the claim was remanded to the Respondent, the Respondent was required to provide the Appellant with notice of adverse action once the claim amount was recalculated using the household's correct information. The notice was required to include information such as the type of claim, time period associated with the claim, how the claim was calculated, that the Appellant has the opportunity to make a written repayment agreement, and the Appellant's right to request a fair hearing to dispute the amount of the recalculated claim. The notices the Respondent provided to the Appellant, beginning in October 2024, do not reflect this required information.

During the hearing, the Respondent's witness testified that she did not send a new notice of the repayment claim amount after she determined the recalculated amount was the same. The Respondent's witness testified that she resumed issuing payment demand notices to the Appellant, based on the June 19, 2024 SNAP repayment claim, and testified that the Appellant was retroactively delinquent on payments to June 2024. The Respondent's witness testified that the Appellant had the opportunity to enter a repayment agreement in June 2024. The Appellant argued that he exercised his right to a fair hearing at that time instead of entering repayment. The submitted documentary or testimonial evidence did not indicate the Appellant refused to enter a repayment agreement.

Because the Respondent failed to issue a proper adverse action notice to the Appellant after the September 9, 2024 SNAP claim recalculation, the Respondent must issue a new notice of adverse action to the Appellant and enclose a repayment agreement before referring the Appellant for Federal collection action.

### **CONCLUSIONS OF LAW**

- 1) When a client requests a fair hearing within 30 days, the Respondent stops collection until after the fair hearing is completed. Any adjustments in the amount of the claim, as required by the fair hearing decision, are made after the decision.
- 2) The September 9, 2024 hearing *Decision* required the Respondent to recalculate the amount of the March through October 2023 SNAP repayment claim.
- 3) When the amount of the claim is not established at the fair hearing, the Respondent must provide the household with a notice of adverse action in compliance with 7 CFR § 273.18(e)(3) and WVIMM § 11.2.5.B.1.

- 4) Because the SNAP repayment claim amount was not established at the fair hearing, the Respondent was required to provide the Appellant with a new notice of adverse action after recalculating the SNAP repayment claim amount.
- 5) The preponderance of evidence revealed that the Respondent failed to issue a written notice of adverse action to the Appellant that contained the reason for the claim, the time period associated with the claim, how the claim was calculated, that the household can make a written agreement to repay the amount of the claim before being referred for Federal collection action, and the opportunity for a fair hearing protesting the claim recalculation.
- 6) The Respondent must issue proper notice of adverse action to the Appellant and enclose a repayment agreement.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's action regarding the Appellant's March through October 2023 SNAP repayment claim delinquency. The matter is **REMANDED** for issuance of proper notice of adverse action and opportunity for the Appellant to enter a written repayment agreement.

**ENTERED this 2<sup>nd</sup> day of April 2025.**

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