



April 21, 2025

[REDACTED]

RE: [REDACTED] v. WV DoHS/BFA
ACTION NO.: 25-BOR-1657

Dear Ms. [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 B. Thompson, MLS
State Hearing Officer
Member, State Board of Review

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

cc: Carl Hostler, Assistant Attorney General

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

[REDACTED],

Appellant,

v.

Action Number: 25-BOR-1657

**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 April 8, 2025.

The matter before the Hearing Officer arises from the Respondent's March 12, 2025 decision to implement a Supplemental Nutrition Assistance Program overissuance repayment claim against the Appellant.

At the hearing, the Respondent appeared by Carl Hostler, Assistant Attorney General. Appearing as a witness for the Respondent was Abigail Vandegrift, Investigations and Fraud Management (IFM). The Appellant appeared *pro se*. The witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Benefit Recovery Referral, dated August 7, 2024
- D-2 West Virginia Income Maintenance Manual (WVIMM) Chapter 1 excerpts
- D-3 WVIMM Chapter 1 excerpts
- D-4 SNAP Claim Determination forms
- D-5 Food Stamp Allotment Determination
SNAP Claim Calculation Sheet
- D-6 People's Access To Help (PATH) application, submitted on April 24, 2024
- D-7 Rights and Responsibilities
- D-8 Notice, dated May 30, 2024
- D-9 Notice, dated July 31, 2024
- D-10 Case Comments dated April 24, 2024 to March 25, 2025

- D-11 WVIMM Chapter 11 excerpts
- D-12 Code of Federal Regulations § 273.18 excerpt
- D-13 Notice, dated March 12, 2025
- D-14 Referral/Claim Comments, dated March 4, 2005 through March 19, 2025

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 March 12, 2025, the Respondent issued a notice advising the Appellant that a \$360 SNAP repayment claim was being implemented because of SNAP overissuance from May 1 through August 31, 2024, caused by an agency error related to the budget group (Exhibit D-13).
- 2) On August 7, 2024, a Benefit Recovery Referral (BVRF) was received by Investigations and Fraud Management (IFM). The referral was assigned to IFM Repayment Investigator Abigail Vandegrift (hereafter Ms. Vandegrift) (Exhibit D-1).
- 3) The BVRF indicated that SNAP overissuance occurred because other household members were accidentally included in the SNAP Assistance Group (AG) (Exhibit D-1).
- 4) From May through August 2024, the Appellant was a member of a three-person Assistance Group (AG) that included her minor daughters [REDACTED] and [REDACTED] (Exhibits D-4 and D-6).
- 5) On April 24, 2024, the Appellant correctly reported the size of her household on her PATH application (Exhibit D-6).
- 6) On April 24, 2024, the Appellant reported she received \$1,058 earned income every two weeks from employment with [REDACTED] (Exhibit D-6).
- 7) On May 29, 2024, Respondent Worker SC2130 received paystubs affirming the Appellant received \$1,058 earned income every two weeks (Exhibit D-10).
- 8) On April 24, 2024, the Appellant provided information regarding her shelter and utility costs (Exhibit D-6).
- 9) The Appellant checked her agreement that she read, understood, and agreed to the *Rights and Responsibilities* listed, including her understanding that the AG may be required to repay any benefits paid to or on behalf of it for which she was ineligible because of unintentional errors made by the Respondent (Exhibits D-6 and D-7).

- 10) On May 2, 2024, Respondent Worker [REDACTED] conducted a telephone interview with the Appellant and noted a three-person household (Exhibit D-10).
- 11) On May 29, 2024, Respondent Worker [REDACTED] noted the Appellant's approval for \$586 in monthly SNAP benefits (Exhibit D-10).
- 12) From May through August 2024, the Appellant received a \$586 monthly SNAP allotment based on an eight-person household and \$3,882.28 net SNAP income (Exhibits D-4, D-8, and D-10).
- 13) From May through August 2024, the Appellant should have received a \$496 monthly SNAP allotment based on a three-person AG and \$899.76 net SNAP income (Exhibits D-4 through D-6).
- 14) The Appellant was overissued \$360 in SNAP benefits from May through August 2024 (Exhibit D-4).
- 15) On July 30, 2024, the Appellant reported that the Respondent included too many household members in her case. (Exhibit D-10)
- 16) On July 30, 2024, Respondent Worker [REDACTED] removed four household members and Respondent Worker EW3080 removed one household member from the Appellant's AG (Exhibit D-10).
- 17) The Appellant's SNAP monthly allotment was reduced to \$496, beginning in September 2024 (Exhibit D-10).

APPLICABLE POLICY

WVIMM § 4.3.30 *Employment* provides that salaries and wages are counted as earned income for SNAP.

WVIMM § 4.4.3.C *Determining the Amount of the Benefit* provides that to determine the SNAP allotment, find the countable income and the maximum benefit allotment for the AG in Appendix A.

WVIMM § 10.4.2 *Client Reporting Requirements* provides that 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

WVIMM § 11.2 *SNAP Claims and Repayment Procedures* provides that when an 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 Intentional Program Violation (IPV) claim.

WVIMM § 11.2.3.A *UPV Claims* provides that there are two types of UPVs — client errors and agency errors. A UPV claim may be established when:

- An error by the [Department] resulted in the over-issuance
- An unintentional error made by the client resulted in the over-issuance ...

A client error UPV is established retroactively for the six years preceding the month of discovery. An agency error is only established retroactively for the one year preceding the date of the discovery.

WVIMM § 11.2.3.A.1 *Agency Errors* provides that for a failure to take prompt action, the first month of over-issuance is the month the change would have been effective had the agency acted promptly. For a computation error, the first month of over-issuance is the month the incorrect allotment was effective.

Code of Federal Regulations 7 CFR § 273.2(e)(1) *Interviews* provides that 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 § 273.2(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 § 273.18(a)(1)(i) explains that a recipient claim is an amount owed because benefits are overpaid.

Code of Federal Regulations 7 CFR § 273.18(b)(1) through (3) provides that there are three types of claims. An Inadvertent Household Error claim is a claim for an overpayment resulting from a misunderstanding or an unintended error on the part of the household. An agency error claim is a claim for an overpayment caused by an action or failure to take action by the State agency.

DISCUSSION

The Respondent argued that the Appellant was overissued SNAP benefits from May 1 through August 31, 2024 because of an agency error caused by the inclusion of more household members than the Appellant reported. The Appellant did not dispute the amount of SNAP benefits received during the proposed SNAP overissuance period and testified that the Respondent's report of events was accurate. The Appellant did not dispute the Respondent's responsibility in causing the SNAP overissuance but argued that repayment should not be owed because the Appellant fulfilled her reporting obligations.

When an AG has been issued more SNAP benefits than it was entitled to receive, an unintentional program violation (UPV) repayment claim may be established to recoup the difference between the amount of SNAP issued to the AG and the SNAP allotment the AG was entitled to receive.

The Respondent bears the burden of proof and had to demonstrate by a preponderance of the evidence that repayment claims must be established because the Appellant received more SNAP benefits than the AG was entitled to receive, from May 1 through August 31, 2024, because of errors made by the Respondent.

According to the evidence, the Appellant met her household and income reporting requirements and the Respondent's worker used incorrect information to determine the AG's SNAP allotment. The submitted evidence revealed that the Respondent determined the Appellant's May 1 through August 31, 2024, SNAP allotment amount based on a household comprised of five (5) more members than the Appellant listed on her SNAP application. Because the Respondent relied on a higher number of AG members, the AG's SNAP allotment was more than the Appellant's three-person AG was entitled to receive.

During the hearing, the Respondent's witness provided an explanation of the calculations used to determine the AG's SNAP allotment during the overissuance period and the calculations used to determine the AG's SNAP entitlement and repayment amount. The Appellant did not contest the Respondent's calculations.

The preponderance of evidence revealed the AG received a higher SNAP allotment than it were entitled to receive because the Respondent considered a higher number of AG members than should have been included in the AG at the time of the issuance. The evidence revealed the Appellant electronically signed her understanding that repayment of SNAP benefits may be required if unintentional errors made by the agency resulted in the AG receiving more benefits than it was eligible to receive. As the regulations and policy permit the agency to seek recoupment of overissued SNAP benefits caused by an agency error, the Respondent was required to implement a UPV repayment claim against the Appellant.

CONCLUSIONS OF LAW

- 1) An agency error repayment claim may be established when an action or failure to act by the agency results in the AG receiving a SNAP overpayment.
- 2) The preponderance of evidence revealed that the Respondent made an agency error by including more AG members than should have been included when calculating the Appellant's monthly SNAP allotment from May 1 through August 31, 2024.
- 3) The preponderance of evidence revealed that the Respondent made an agency error that resulted in the AG receiving more SNAP benefits than it was entitled to receive from May 1 through August 31, 2024.
- 4) As the evidence revealed an agency error resulted in the AG receiving more SNAP benefits than it was entitled to receive, the Respondent must implement a SNAP overissuance repayment claim.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to implement a SNAP overissuance repayment claim against the Appellant.

ENTERED this 21st day of April 2025.

Tara B. Thompson, MLS
State Hearing Officer