



July 8, 2025

[REDACTED]

RE: [REDACTED] v. OIG/IFM
ACTION NO.:25-BOR-2171

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 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,

Kristi Logan
Certified 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-2171

**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 [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 July 2, 2025.

The matter before the Hearing Officer arises from the May 16, 2025, decision by the Respondent to establish a repayment claim of Supplemental Nutrition Assistance Program (SNAP).

At the hearing, the Respondent appeared by Carl Hostler, Assistant Attorney General. Appearing as a witness for the Respondent was Anisha Eye, Repayment Investigator. The Appellant was self-represented. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request Notification Form
- D-2 Case Members History
- D-3 SNAP Issuance History-Disbursement
- D-4 SNAP Allotment Determination
- D-5 Non-Financial Eligibility Determination
- D-6 SNAP Claim Determination
- D-7 SNAP Claim Calculations Sheets
- D-8 SNAP Application dated October 31, 2025
- D-9 SNAP 6 or 12-Month Reporting Form dated February 28, 2025
- D-10 Case Comments
- D-11 Employee Wage Data

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 applied for SNAP benefits for a four-person assistance group on October 31, 2024.
- 2) The Appellant reported that her husband, [REDACTED] was employed and she received income from dividends (Exhibits D-8 and D-10).
- 3) The SNAP application was pended for verification of income due by November 13, 2024 (Exhibit D-10).
- 4) According to a case comment dated November 15, 2024, paystubs for [REDACTED] were received and a statement from his employer indicating that the discretionary bonus received cannot be anticipated monthly (Exhibit D-10).
- 5) The Department of Human Services (Department) caseworker created two earned income screens in its eligibility system, one for [REDACTED] regular earnings and one for his bonus pay. The October 31, 2024, paystub was illegible, and SNAP benefits were denied for failure to verify income (Exhibit D-10).
- 6) On November 19, 2024, a caseworker from the Department's customer service center recorded in case comments that a legible copy of the October 31, 2024, paystub had been received, and SNAP benefits were approved (Exhibit D-10).
- 7) The Appellant received monthly SNAP benefits of \$298 from November 2024 through March 2025 for a three-person assistance group. [REDACTED] was excluded from the SNAP assistance group as he did not meet citizenship requirements (Exhibit D-3).
- 8) The Appellant submitted a SNAP periodic reporting form to the Respondent on February 28, 2025 (Exhibit D-9).
- 9) The SNAP periodic reporting form listed \$0 earned income and \$2,108.17 unearned income for the household (Exhibit D-9).

- 10) The Appellant corrected the earned income to \$3,750 and \$5.77 unearned income on the periodic reporting form (Exhibit D-9).
- 11) On March 4, 2025, the Department caseworker determined that the earned income screen for [REDACTED] regular earnings had been removed from the case on November 19, 2024, and the \$2,108.17 that was used to determine the household's SNAP allotment was his bonus income (Exhibit D-10).
- 12) The Department caseworker added [REDACTED] earned income and bonus pay to the Appellant's case on March 13, 2025, and SNAP benefits were terminated effective March 31, 2025, due to excessive income (Exhibit D-10).
- 13) The Respondent contended that the Appellant's household was overissued \$1,490 in SNAP benefits from November 2024 through March 2025 due to agency error (Exhibits D-6 and D-7).

APPLICABLE POLICY

Code of Federal Regulations Title 7 §273.18 explains SNAP repayment claims:

- (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 trafficks 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 explains repayment procedures:

11.2 SNAP Claims and Repayment Procedures

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.

11.2.3 Identifying the Month(s) for Which Claims are Established

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

11.2.3.A UPV Claims

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.

11.2.3.A.1 Agency Errors

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.

11.2.3.A.2 Client Errors

When the client fails to provide accurate or complete information, the first month of the overissuance is the month the incorrect, incomplete, or unreported information would have affected the benefit level considering notice and reporting requirements.

11.2.5 Collecting the Claim

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.

11.2.6 Determining the Repayment Amount

The minimum amount of repayment is determined as follows.

11.2.6.A UPV Client and Agency Errors

11.2.6.A.1 Current Recipients

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

11.2.6.A.2 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 4 explains income guidelines for SNAP eligibility:

4.4.4.1 Budgeting Method

Eligibility is determined and benefits are issued on a monthly basis; therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the AG. Income is projected; past income is used only when it reflects the income the client reasonably expects to receive during the certification period.

4.4.4.H Deeming

Income is deemed from individuals who are ineligible, disqualified, and excluded by law and from certain income sources as found below.

4.4.4.H.1 Deeming from Disqualified or Ineligible Individuals

Income treatment differs, based on the reason for the disqualification or ineligibility as follows.

Ineligible AG Members

- The following individuals are ineligible to be included in the AG and are not counted as AG or Needs Group members when determining eligibility and the benefit level.
- Ineligible noncitizens
- Individuals who are found to be ineligible Able-Bodied Adults Without Dependents (ABAWD)

The income is deemed as follows:

Step 1: The total countable income of the ineligible individual is divided by the number of persons in the AG, plus the ineligible individual(s). This is each individual's pro rata share.

Step 2: Subtract the disqualified individual(s') share from his total countable income. The remaining amount is counted as income to the AG. The Earned Income Disregard is applied only to the portion deemed to the AG. The portion of the AG's allowable child support payments, shelter, and dependent care expenses, which are billed to and/or paid by the ineligible individual is prorated as described above.

West Virginia Income Maintenance Manual Chapter 15 explains Noncitizen eligibility for SNAP:

15.6.1 Method Used in Deeming

The income and assets of non-qualified noncitizens are considered when determining eligibility for those individuals for whom the noncitizens are financially responsible (spouses and children). The ineligible noncitizen is not included in the SNAP AG. The income of all ineligible noncitizens and/or illegal noncitizens is prorated to the Supplemental Nutrition Assistance Program (SNAP) AG using the method described in Section 4.4.4

DISCUSSION

Pursuant to policy and federal regulations, when an assistance group 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. The claim is the difference between the SNAP entitlement of the assistance group and the SNAP allotment the assistance group was entitled to receive. SNAP benefits for which the assistance group was not entitled to receive must be repaid, regardless of the type of error.

The Respondent established an agency error repayment claim for the Appellant for SNAP benefits that were issued from November 2024 through March 2025 for which the Appellant was not eligible to receive. The Respondent's witness, Anisha Eye, testified that a Department caseworker erroneously removed [REDACTED] employment income from the case in November 2024, when SNAP benefits were initially approved, and only his bonus pay was counted when determining the assistance group's SNAP benefit allotment. Ms. Eye stated that in using [REDACTED] employment income and bonus pay income, the assistance group had excessive income to receive SNAP benefits.

The Appellant argued that she provided her husband's income to the Department correctly and contended that the repayment was unfair as she did not make the error that caused the SNAP overissuance. The Appellant stated that a repayment would cause a hardship for her family and questioned who would be held accountable for the error.

Policy stipulates that the income of non-qualified noncitizens is considered when determining eligibility for spouses and children. The ineligible noncitizen is not included in the SNAP AG and the income of the ineligible noncitizen is prorated to the SNAP assistance group. A portion of [REDACTED] earned income was excluded from the SNAP eligibility determination for the Appellant's assistance group due to agency error. SNAP benefits issued from November 2024 through March 2025 were calculated by using [REDACTED] bonus pay only. There is no dispute that the overissuance was caused by an agency error and did not reflect any wrongdoing on behalf of the Appellant. SNAP benefits that are issued in error must be recouped, regardless of the type of error.

Whereas the Appellant was issued SNAP benefits for which she was not entitled to receive, the Respondent's decision to establish a repayment claim for benefits issued in error is affirmed.

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 agency error or client error.
- 2) A Department caseworker removed [REDACTED] employment from the Appellant's case in November 2024 in error.
- 3) The Appellant's assistance group was issued SNAP benefits based on only a portion of [REDACTED] income.
- 4) The total countable income for the Appellant's assistance group exceeded the allowable limit to receive SNAP benefits.

5) The Respondent's decision to implement a repayment claim of SNAP benefits for 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 against the Appellant

ENTERED this 8th day of July 2025.

Kristi Logan
Certified State Hearing Officer