WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted]

Appellant,

v. **Action Number: 26-BOR-2653**

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 September 22, 2026, on an appeal filed with the Board of Review on September 1, 2026.

The matter before the Hearing Officer arises from the August 26, 2026, decision by the Respondent to establish a Supplemental Nutrition Assistance Program (SNAP) 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 Emily Shumate, Investigations and Fraud Management. The Appellant was self-represented. The witnesses were placed under oath, and the following documents were admitted into evidence.

Respondent's Exhibits:

D-1 Hearing Request Notification Form
D-2 Board of Review Scheduling Order date September 2, 2026
D-3 Notice of SNAP Overissuance dated August 26, 2026
D-4 Case Comments
D-5 SNAP and Medicaid Review Form dated December 30, 2025, and SNAP and Medicaid Review Form dated January 5, 2026
D-6 Disability/Incapacity Medical Assessment dated August 13, 2026
D-7 [redacted] Community and Technical College Admission Policies and Procedures and Fall 2026 Course Schedule
D-8 West Virginia Income Maintenance Manual §3.2.1.E

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 SNAP benefits for a one-person assistance group.

2) The Appellant completed a SNAP redetermination in January 2026.

3) The Appellant reported that she had no income and was attending classes at [redacted] Community and Technical College (Exhibit D-5).

4) SNAP benefits for the Appellant were recertified based on the information provided.

5) The Appellant completed a SNAP redetermination in June 2026 and reported that she was attending classes at [redacted] Community and Technical College, attended classes in the fall semester of 2025 and planned to enroll in the fall semester of 2026 (Exhibit D-4).

6) A requirement for admission to [redacted] Community and Technical College's Certificate of Applied Science program is a high school diploma or high school equivalency (Exhibit D-7).

7) The Appellant is enrolled in the Medical Billing and Insurance Applied Science program (Exhibits D-4 and D-7).

8) The Department of Human Services (DoHS) determined the Appellant was an ineligible student and terminated her SNAP benefits (Exhibit D-4).

9) The Appellant contacted the DoHS regarding her SNAP termination on July 23, 2026, and was advised of the student policy and possible exemptions (Exhibit D-4).

10) The Appellant submitted a Disability/Incapacity Medical Assessment (DIMA) signed by her medical practitioner on August 13, 2026 (Exhibit D-6).

11) On August 26, 2026, the Respondent sent a notice to the Appellant advising that an agency error repayment claim of $1,788 had been established for SNAP benefits that were issued from January through June 2026 (Exhibit D-3).

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.

Code of Federal Regulations Title 7 §273.5 explains student eligibility:

(a) ***Applicability.*** An individual who is enrolled at least half-time in an institution of higher education shall be ineligible to participate in SNAP unless the individual qualifies

for one of the exemptions contained in paragraph (b) of this section. An individual is considered to be enrolled in an institution of higher education if the individual is enrolled in a business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.

(b) ***Student Exemptions.*** To be eligible for the program, a student as defined in paragraph (a) of the section must meet at least one of the following criteria.

(1) Be age 17 or younger or age 50 or older;

(2) Be physically or mentally unfit;

(3) Be receiving Temporary Assistance for Needy Families under Title IV of the Social Security Act;

(4) Be enrolled as a result of participation in the Job Opportunities and Basic Skills program under Title IV of the Social Security Act or its successor program;

(5) Be employed for a minimum of 20 hours per week and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receiving weekly earnings at least equal to the Federal minimum wage multiplied by 20 hours.

(6) Be participating in a State or federally financed work study program during the regular school year.

(i) To qualify under this provision, the student must be approved for work study at the time of application for SNAP benefits, the work study must be approved for the school term, and the student must anticipate actually working during that time. The exemption shall begin with the month in which the school term begins or the month work study is approved, whichever is later. Once begun, the exemption shall continue until the end of the month in which the school term ends, or it becomes known that the student has refused an assignment.

(ii) The exemption shall not continue between terms when there is a break of a full month or longer unless the student is participating in work study during the break.

(7) Be participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer;

(8) Be responsible for the care of a dependent household member under the age of 6;

(9) Be responsible for the care of a dependent household member who has reached the age of 6 but is under age 12 when the State agency has determined that adequate child care is not available to enable the student to attend class and comply with the work requirements of paragraph (b)(5) or (b)(6) of this section;

(10) Be a single parent enrolled in an institution of higher education on a full-time basis (as determined by the institution) and be responsible for the care of a dependent child under age 12.

(i) This provision applies in those situations where only one natural, adoptive or stepparent (regardless of marital status) is in the same SNAP household as the child.

(ii) If no natural, adoptive or stepparent is in the same SNAP household as the child, another full-time student in the same SNAP household as the child may qualify for eligible student status under this provision if he or she has parental control over the child and is not living with his or her spouse.

(11) Be assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the programs identified in paragraphs (b)(11)(i) through (b)(11)(iv) of this section. The programs are:
(i) A program under the Job Training Partnership Act of 1974 (29 U.S.C. 1501, *et seq.*);
(ii) An employment and training program under §273.7, subject to the condition that the course or program of study, as determined by the State agency:
(A) Is part of a program of career and technical education as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302) designed to be completed in not more than 4 years at an institution of higher education as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 2296); or
(B) is limited to remedial courses, basic adult education, literacy, or English as a second language.
(iii) A program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or
(iv) An employment and training program for low-income households that is operated by a State or local government where one or more of the components of such program is at least equivalent to an acceptable SNAP employment and training program component as specified in §273.7(e)(1). Using the criteria in §273.7(e)(1), State agencies shall make the determinations as to whether or not the programs qualify.
(c) The enrollment status of a student shall begin on the first day of the school term of the institution of higher education. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).
(d) The income and resources of an ineligible student shall be handled as outlined in §273.11(d).

West Virginia Income Maintenance Manual Chapter 3 explains student eligibility:

3.2.1.E Students
A student is an individual who is enrolled at least half time in a recognized school, training program or institute of higher education. A student enrolled at an institute of higher education is ineligible to participate in SNAP unless the individual qualifies for one of the exemptions described below.

- An institution of higher education is defined as a business, technical, trade, or vocational school that normally requires a high school diploma or its equivalent for enrollment in the curriculum, or a college or university that offers degree programs whether or not a high school diploma is required for a particular curriculum.
- For this definition, a college includes a junior, community, two-year, or four-year college.

NOTE: An individual enrolled at least half time in a school or training program that does not meet the definition of an institution of higher education is eligible to participate in SNAP, providing the individual meets all other criteria. Vocational schools which are a substitute for high school are not considered institutions of higher education.

3.2.1.E.2 Student Exemptions

A student meets an exemption if he is:

- Under age 18;
- Age 50 or over;
- He is physically or mentally unfit for employment. An individual who meets the definition of disability found in Section 13.15 is considered unfit for employment. Other individuals may be considered unfit for employment if it is verified through a written statement from a licensed medical professional or if it is clearly obvious to the supervisor or senior worker. An individual who meets the definition of unfit for employment, but not disability, should not be coded as disabled in the eligibility system;
- Participating in an on-the-job training program.
- Employed at least 20 hours per week or 80 hours a month and is paid for the employment. Unlike normal work registration, a student cannot substitute wages equivalent to 20 times the minimum hourly wage but must actually work at least 20 hours a week or 80 hours a month, regardless of the amount of wages.
- Included in a WV WORKS benefit;
- Assigned to or placed in an institution of higher education through one of the following:
    - Workforce Innovation and Opportunity Act (WIOA)
    - Section 236 of the Trade Act of 1974 o An employment and training program for low-income households that is operated by a state or local government when one or more of the program's components is at least equivalent to SNAP E&T, Responsible for the care of a child under the age of six;
- Responsible for the care of an AG member who has reached the age of 6 but is under age 12 and adequate child care is not available to enable the student to attend class and satisfy the 20 hour work requirement or participate in a state or federally financed CWS program during the regular school year; or
- Is a single parent (natural, adoptive, or stepparent), regardless of marital status, and is responsible for an AG member under age 12, regardless of the availability of adequate childcare, and is enrolled full-time, as defined by the institution.

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 depends 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.

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 against the Appellant for SNAP benefits that were issued from January 2026 through June 2026 for which she was not eligible to receive. Emily Shumate, witness for the Respondent, testified that the Appellant was attending school full-time during the repayment period and did not meet any of the exemptions listed in policy to be eligible for SNAP benefits. Ms. Shumate contended that the Appellant was coded in the DoHS eligibility system as attending a vocational school, instead of an institute of higher education, which incorrectly exempted her from the student policy. Ms. Shumate stated that the DIMA submitted in August 2026 did not indicate that the Appellant was unable to work and could not be used to meet an exemption from the student policy.

The Appellant testified that she has always reported her school enrollment and did not agree with the student policy as she has no income and resides in a camper without utilities. The Appellant argued that she participates in a drug rehabilitation program weekly and has a disability claim pending with the Social Security Administration, which should exempt her from the student policy.

Policy defines a student as an individual who is enrolled at least half time in a recognized school, training program or institute of higher education. A student enrolled at an institute of higher education is ineligible to participate in SNAP unless the individual qualifies for an exemption. An institution of higher education is a business, technical, trade, or vocational school that normally requires a high school diploma or its equivalent for enrollment in the curriculum, or a college or university that offers degree programs whether or not a high school diploma is required for a particular curriculum. The Appellant was enrolled in a technical school that requires a high school diploma or equivalency full-time, therefore she met the definition of an ineligible student.

Policy lists disability as a possible exemption from the student policy. Although the Appellant has a disability claim pending, disability for the Appellant has not been established. The DIMA provided by the Appellant in August 2026 indicated that the Appellant can work with accommodation. Participation in a drug treatment program is not an exemption from the student policy. No other potential exemptions from the student policy were identified for the Appellant.

Whereas the Appellant met the definition of an ineligible student and did not meet any exemptions found in policy, the Appellant was ineligible to receive SNAP benefits from January through June 2026. The Respondent acted in accordance with policy in establishing a SNAP repayment claim of $1,788 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 agency error or client error.

2) The Appellant was attending [redacted] Community and Technical College full-time in the spring semester of 2026.

3) Policy defines a student as an individual who is enrolled at least half time in a recognized school, training program or institute of higher education.

4) A student who is enrolled at an institute of higher education is ineligible to participate in SNAP unless an exemption is met.

5) The Appellant did not meet any of the exemptions as found in policy to exclude her from the student policy.

6) The Appellant was not eligible to receive SNAP benefits from January through June 2026.

7) The Respondent correctly established a repayment claim of $1,788 in SNAP benefits against the Appellant.

DECISION

It is the decision of the State Hearing Officer to **uphold** the action of the Respondent to establish a Supplemental Nutrition Assistance Program benefit agency error repayment claim of $1,788.

ENTERED this 23rd day of September 2026.

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Kristi Logan
Certified State Hearing Officer