



April 11, 2024

[REDACTED]

Re: [REDACTED] v WV DoHS
ACTION NO.: 24-BOR-1466

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 Health. 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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

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

cc: Lisa Snodgrass, Investigations and Fraud Management

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

██████████,

Appellant,

v.

ACTION NO.: 24-BOR-1466

**WEST VIRGINIA OIG 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 ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on March 12, 2024, on an appeal filed February 14, 2024.

The matter before the Hearing Officer arises from the January 12, 2023 determination by the Respondent to implement a Supplemental Nutrition Assistance Program (SNAP) benefit repayment claim against the Appellant.

At the hearing, the Respondent appeared by Lisa Snodgrass, Investigations and Fraud Management. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV Department of Human Services (DoHS) Notice of SNAP Overissuance period 12/01/22 to 01/31/23, dated January 12, 2024; and WV DoHS Notice of SNAP Overissuance period 03/02/23 to 08/31/23, dated January 12, 2024
- D-2 WV DoHS People's Access to Help (PATH) SNAP application, dated February 08, 2023
- D-3 WV DoHS SNAP Notice of Quality Control (QC) Error Findings, dated November 20, 2023; and Benefit Recovery Referral, dated January 09, 2024
- D-4 WV DoHS PATH eligibility system printout of Case Comments, dated October 04, 2022 through December 06, 2023
- D-5 WV DoHS Notice, dated February 28, 2023
- D-6 WV DoHS Notice(s) of Decision, dated March 03, 2023
- D-7 WV DoHS PATH eligibility system printout of Data Exchange - New Hire Details for ██████████, dated March 05, 2024; and WV DoHS PATH eligibility system printout of Historical Employee Wage Data, dated January 09, 2024

- D-8 WV DoHS Food Stamp Claim Determination and Food Stamp Claim Calculation Sheet, dated December 2022 through January 2023; WV DoHS PATH eligibility system printout of Case Benefit Summary for [REDACTED], dated December 2022 through August 2023; WV DoHS Food Stamp Claim Determination and Food Stamp Claim Calculation Sheet, dated March 2023 through August 2023; and WV DoHS PATH eligibility system printout of Case Benefit Summary for [REDACTED] dated December 2022 through August 2023
- D-9 WV DoHS SNAP Income Chart
- D-10 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.4 through 1.2.8, 1.4.3 through 1.4.6.A, 3.2.1.F through 3.2.3, 4.4 through 4.4.3.A, 11.2.3.A.2, 11.2.3.B, 10.4 through 10.4.2.D

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 Medicaid and Supplemental Nutrition Assistance Program (SNAP) benefits for a one (1) person Assistance Group (AG).
- 2) Due to her failure to complete a review on an unknown date in January 2023, the Appellant's SNAP benefits were terminated beginning February 01, 2023. (Exhibit D-4)
- 3) On February 08, 2023, the Appellant completed a new application for SNAP benefits for a one (1) person AG that was electronically signed and submitted through the DoHS PATH on-line system. (Exhibit D-2)
- 4) At the time of application, the Appellant reported a \$0 total household income. (Exhibit D-2)
- 5) The Appellant electronically signed the Rights and Responsibilities (R&R) form acknowledging the understanding that she was responsible for the repayment of over-issued SNAP benefits whether due to her own error or that of the agency. (Exhibit D-2)
- 6) On February 23, 2023, the Appellant called to check the status of her SNAP application. At that time she reported she was previously receiving income from [REDACTED] but was no longer employed as of the same date. (Exhibit D-4)
- 7) A telephone interview was conducted by a Respondent Worker on March 02, 2023, and the Appellant's SNAP benefits were approved. (Exhibit D-4)
- 8) On November 20, 2023, the Appellant's case was selected randomly for review by the Respondent's Quality Control (QC) unit. (Exhibit D-3)

- 9) As a result of the review, a repayment referral was received from the Quality Control Unit alleging that, because the Appellant failed to complete the required SNAP eligibility interview, she was ineligible for benefits received during the certification period of March 02, 2023 through February 28, 2024 due to “agency error.” (Exhibit D-3)
- 10) The Respondent’s Investigations and Fraud Management (IFM) unit reviewed the Appellant’s case and determined the Appellant received an over-issuance of SNAP benefits in the amount of \$752 for the months of December 01, 2022 through January 31, 2023, due to unreported income, and \$1,418 for the months of March 02, 2023 through August 31, 2023, due to failure to complete an eligibility interview and due to unreported income. (Exhibit D-1)
- 11) On January 12, 2024, the Respondent issued a notice(s) advising the Appellant that two (2) “client error” SNAP repayment claims had been initiated in order to recoup the over-issuance of SNAP benefits in the amount of \$752 for the months of December 01, 2022 through January 31, 2023, and \$1,418 for the months of March 02, 2023 through August 31, 2023. (Exhibit D-1)
- 12) The Appellant contested the Respondent’s January 12, 2024 Repayment Claims and on February 14, 2024, a Fair Hearing was requested.
- 13) A response to the November 20, 2023, QC findings was not provided.
- 14) Agency error related to failure to complete an eligibility interview was not a basis of repayment listed on the January 12, 2024 notice(s). (Exhibit D-1)
- 15) The Appellant had wage earnings from various employers that were not reported during the December 2022 - January 2023 and March 2023 - August 2023 time periods. (Exhibit D-7)
- 16) The Appellant did not dispute the Respondent’s income determination or repayment amount.
- 17) The Appellant earned quarterly incomes of: \$4,620.02 for 4th quarter 2022; \$3,421.53 for 1st quarter 2023; \$7,557.83 for 2nd quarter 2023; \$6,232.32 for 3rd quarter 2023. (Exhibit D-7)

APPLICABLE POLICY

The Code of Federal Regulations, 7 CFR § 273.9, provides, in part:

§ 273.9 Income and deductions.

(a) *Income eligibility standards:* Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for

SNAP. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for SNAP. Households which are categorically eligible as defined in § 273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(1) The gross income eligibility standards for SNAP shall be as follows:

(i) The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be 130 percent of the Federal income poverty levels for the 48 contiguous States and the District of Columbia.

7 CFR § 273.9(a)(4), provides, in part:

The monthly gross and net income eligibility standards for all areas will be prescribed in tables posted on the FNS web site, at www.fns.usda.gov/snap

7 CFR 273.12(d), provides, in part:

Failure to report.

If the State agency discovers that the household failed to report a change as required by paragraph (a) of this section and, as a result, received benefits to which it was not entitled, the State agency shall file a claim against the household in accordance with § 273.18. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if the household's benefits are reduced. A household shall not be held liable for a claim because of a change in household circumstances which it is not required to report in accordance with § 273.12(a)(1). Individuals shall not be disqualified for failing to report a change, unless the individual is disqualified in accordance with the disqualification procedures specified in § 273.16.

7 CFR § 273.18, provides, in part:

(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.

7 CFR 273.18(a) (a) provides, in part:

(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.

7 CFR 273.18(e)(4) provides, in part:

(4) *Repayment agreements.*

(i) Any repayment agreement for any claim must contain due dates or time frames for the periodic submission of payments.

(ii) The agreement must specify that the household will be subject to involuntary collection action(s) if payment is not received by the due date and the claim becomes delinquent.

West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 provides, in part:

The client's responsibility is to provide complete and accurate information about her circumstances so that the Worker is able to make a correct determination about her eligibility.

WVIMM § 1.6.10 provides, in part:

The IEVS provides the Department of Human Services (DOHS) with additional sources of information for use in determining eligibility and the amount of the benefit for applicants and clients. This information is provided to the Worker through data exchanges.

WVIMM § 6.1.2 provides, in part:

The IEVS provides the DOHS with additional sources of information for use in determining eligibility and the amount of the benefit for applicants and clients. This information is provided to the Worker through data exchanges.

Through the eligibility system, DOHS staff receive information obtained through data exchanges with other governmental agencies. The IEVS procedures ensure that appropriate Internal Revenue Service (IRS) privacy and procedural safeguards are applied in the use of the information. The same precautions with privacy and procedural safeguards apply to information received through the FDH.

Information obtained through IEVS is used for the following purposes:

- To verify the eligibility of the assistance group (AG)
- To verify the proper amount of benefits
- To determine if the AG received benefits to which it was not entitled

To obtain information for use in criminal or civil prosecution based on receipt of benefits to which the AG was not entitled. Federal regulations require use of the following data exchanges that are provided using the IEVS:

- WorkForce West Virginia
- Wage and unemployment compensation information (UCI) data is available.
- Internal Revenue Service (IRS) – Unearned income data is available.
- Social Security Administration (SSA) – Retirement, Survivors and Disability Insurance (RSDI), Supplemental Security Income (SSI), and net earnings from self-employment data are available.

WVIMM § 10.2.1 provides, in part:

The need for case maintenance originates from sources including the client, information from other offices or bureaus within the DOHS, and data system matches and case maintenance functions.

When reported information results in a change in benefits and additional or clarifying information is needed, the Worker must first request the information by using the DFA-6 or verification checklist. If the client does not provide the information within the time frame specified by the Worker, the appropriate action is taken after advanced notice.

WVIMM § 10.4.2 provides, in part:

All SNAP Assistance Groups (AGs) must report changes related to eligibility and benefit amount at application and redetermination.

WVIMM § 10.4.2.B.2 provides, in part:

The following are considered reported changes for SNAP and require follow up and/or action for all AGs:

- Information received from any source that the client was required to report.

Information Requiring Reporting Example: A report is received from Quality Control (QC) that the income of a SNAP AG exceeds the gross limit. The information is acted on because the client is required to report it.

WVIMM § 10.4.2.C provides, in part:

When the client does not report in a timely manner and the change could have been made earlier, a claim for benefit repayment may be established.

WVIMM § 10.4.3.B provides, in part:

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.

WVIMM § 11.2 provides, in part:

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.

WVIMM § 11.2.3.A provides, in part:

There are two types of UPVs – client error (CE) and agency errors (AE). A CE claim may be established when it is determined that the over-issuance was a result of an unintentional error made by the client. An AE claim may be established when it is determined that the over-issuance was a result of an error made by the Department.

WVIMM § 11.2.5.B.1 provides, in part:

The AG is notified of the SNAP claim by computer-generated notification/demand payment letters from the eligibility system. Enclosed with the letter is a repayment agreement, form ES-REPAY-1, and a postage-paid envelope.

DISCUSSION

The Appellant was a recipient of Medicaid and Supplemental Nutrition Assistance Program (SNAP) benefits for a one (1) person Assistance Group (AG). Due to the Appellant's failure to complete a review, her SNAP benefits were terminated beginning February 01, 2023. On February 08, 2023, the Appellant completed a new application for SNAP benefits for a one (1) person AG that was electronically signed and submitted through the DoHS PATH on-line system. At the time of application, the Appellant reported a \$0 total household income. She signed the Rights and Responsibilities (R&R) form acknowledging the understanding that she was responsible for the repayment of over-issued SNAP benefits whether due to her own error or that of the agency.

On November 20, 2023, the Appellant's case was selected randomly for review by the Respondent's Quality Control (QC) unit. As a result of the review, a repayment referral was received from the QC Unit alleging that on March 02, 2023, the Appellant's application was

approved in error. The QC Error Findings report reads “case comments dated 03/02/2023 do not indicate that an eligibility interview was completed, and the case was confirmed. QC has determined that this case is out of certification because there is no evidence that an eligibility interview was completed.” Because the March 02, 2023 case comment does not specify that the required SNAP eligibility interview was completed, QC determined that the Appellant was ineligible for SNAP benefits received during the certification period of March 02, 2023 through February 28, 2024, due to “agency error.” It should be noted that a response to the November 20, 2023, QC findings was not provided.

After receiving the referral from the QC Unit, the Respondent’s Investigations and Fraud Management (IFM) Unit reevaluated the Appellant’s case and alleged that in addition to the agency’s failure to complete an eligibility interview, the Appellant also failed to report earned income, resulting in an over-issuance of \$1,418 in SNAP benefits from March 02, 2023 through August 31, 2023. Because benefits received during the March 2023 - January 2024 certification period allegedly resulted in errors caused by both the agency and the client, the IFM investigator changed the over-issuance to that of a “client error.” The IFM investigator testified that the Appellant received an additional “client error” over-issuance of \$752 in SNAP benefits beginning December 01, 2022 through January 31, 2023, due to unreported income.

On January 12, 2024, a notice was issued advising the Appellant that two (2) “client error” SNAP repayment claims had been initiated in order to recoup the over-issuance of SNAP benefits received for the time periods of December 01, 2022 through January 31, 2023, and March 02, 2023 through August 31, 2023. The Appellant disagreed with the Respondent’s decision to establish repayment claims and requested a Fair Hearing on February 14, 2024. The Respondent bears the burden of proof and has to demonstrate by a preponderance of evidence that it correctly followed the policy when establishing repayment claims against the Appellant. The Respondent testified that when the Appellant’s employment wage data was retrieved, unreported income was discovered. The Respondent calculated that the Appellant earned quarterly incomes of: \$4,620.02 for 4th quarter 2022; \$3,421.53 for 1st quarter 2023; \$7,557.83 for 2nd quarter 2023; \$6,232.32 for 3rd quarter 2023. The Respondent testified that because the Appellant’s previous SNAP application (submitted on an unknown date, 2022) and her February 2023 SNAP application were based on the Appellant reporting \$0 income, she was approved for and began receiving SNAP benefits she was not eligible to receive.

The Appellant argued that all income was reported to the Department, as required. She testified that she has contacted the Department on several occasions to update her employment status, along with providing paystubs in person so that she would not “get in any kind of trouble.” She further argued that she has stayed proactive with her case by always submitting what was asked of her and reporting any changes. The Appellant testified that the Department’s inability to handle documentation appropriately - due to a mishandling of paystubs that were provided in person on an unknown date, April 2023 - as partial cause for the over-issuance. The Appellant further testified that during a phone call with the Respondent, the Respondent worker obtained the misplaced income verification, and an eligibility review was completed at that time. Case comments dated June 22, 2023, while cut off and missing portions of each, do seem to support the Appellant’s testimony. The June 22, 2023 case comments further note that the Appellant’s paystubs were scanned into the Respondent’s system on June 13, 2023. It should be noted that the Appellant did not dispute the Respondent’s income determination or repayment amount.

When reviewing the evidence, the reliability of the Respondent’s submission is found to be in question. Many pages appear to be copied and pasted with the majority of the pages cut off -

making case comments, notices, and PATH eligibility system printouts nearly impossible to interpret. However, what can be determined is that the QC Unit relied heavily on the March 02, 2023 case comment failing to specifically note that an eligibility review was completed. The IFM investigator provided conflicting testimony regarding the submission of the case comments. At the time of the hearing, when questioned how the Respondent is able to determine the difference between a county worker's case comment and a change center worker's case comment, the investigator testified that the marker [REDACTED] was an identifier for change center workers. The investigator then testified that when the Appellant contacted the change center, worker [REDACTED] ran and approved the Appellant's SNAP benefits in error. She further testified that on the same date, when county worker (as identified by [REDACTED]) also entered the Appellant's case, no action was taken due to the previous case comment affirming the Appellant's SNAP was opened and passed.

When reviewing the case comments, it is the opposite. Sequence 1 case comment entered by worker [REDACTED] clearly reads "SNAP opened and passed," while sequence 2 case comment entered by change center worker [REDACTED] reads "no further action taken." There was no reliable evidence entered to establish that the Appellant did not complete the required SNAP eligibility review on March 02, 2023. What can be determined is that on multiple occasions the Appellant failed to report changes to her income, which resulted in the over-issuance of SNAP benefits. The Appellant provided conflicting testimony regarding the reporting of her employment. While she did not contest the income calculations or the amount of repayment, the Appellant testified that she contacted the Department on multiple occasions to report her employment. However, as evidenced, SNAP benefits from March 02, 2023 through August 31, 2023 certification period, and December 01, 2022 through January 31, 2023 certification period were approved based on a \$0 income as reported by the Appellant on each of the correlating SNAP applications. When compared with that of the Appellant's employment wage data, the preponderance of evidence indicated that the Appellant had unreported/under-reported her income.

The Appellant has a responsibility to report accurate information about her circumstances so that a correct decision can be made regarding the SNAP AG's benefit eligibility. When the client fails to provide accurate or complete information, the first month of the over-issuance is the month the incorrect, incomplete, or unreported information would have affected the benefit level.

Policy stipulates when an AG has been issued more SNAP benefits than it was entitled to receive, regardless of whether by client error or agency error, corrective action must be taken by establishing a repayment claim for the over-issued SNAP benefits. As a recipient of Modified Adjusted Gross Income (MAGI) Medicaid and SNAP benefits, the Appellant was required to report changes affecting benefit eligibility within ten (10) days of the change. Because the Appellant failed to report income in excess of her benefit level, the Respondent was not able to make a correct determination about the Appellant's SNAP eligibility and benefit allotment. As established by the evidence, the Respondent acted in accordance with the policy to establish the "client error" SNAP repayment claims for benefits over-issued to the Appellant for the time periods of December 01, 2022 through January 31, 2023, and March 02, 2023 through August 31, 2023.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, when an assistance group has received SNAP benefits that it was not

entitled to receive, corrective action is taken by establishing a repayment claim, regardless of whether the overissuance was a result of an agency error or client error.

- 2) Because the Appellant failed to report income earned from December 2022 through August 2023, the Appellant's AG received more SNAP benefits than they were entitled to receive.
- 3) Because the Appellant's AG received more SNAP benefits than it was entitled, the Respondent acted correctly to initiate a repayment claim to recoup SNAP benefits over-issued to the AG for the months of December 01, 2022 through January 31, 2023, and and March 02, 2023 through August 31, 2023.
- 4) Because the Appellant failed to report the AG's employment income, the Respondent acted in accordance with policy to establish the repayment as a "client error".

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to establish two (2) "client error" repayment claims against the Appellant for Supplemental Nutrition Assistance Program benefits issued in the amount of \$752 for the months of December 01, 2022 through January 31, 2023, and \$1,418 for the months of March 02, 2023 through August 31, 2023 for which she was not eligible to receive.

ENTERED this 11th day of April 2024.

Angela D. Signore
State Hearing Officer