



September 9, 2024

[REDACTED]

RE: [REDACTED] v. WV OIG/ IFM  
ACTION NOS.: 24-BOR-2579 and 24-BOR-2580

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 Office of the Inspector General and 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: Lisa Snodgrass, IFM

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

████████████████████

**Appellant,**

v.

**Action Numbers: 24-BOR-2579 and 24-BOR-2580**

**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 ██████████. 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 24, 2024, and reconvened on August 7, 2024.

The matter before the Hearing Officer arises from the Respondent's June 19, 2024 decision to implement Supplemental Nutrition Assistance Program benefit repayment claims and July 3, 2024 decision to implement Low-Income Energy Assistance Program (LIEAP) benefit repayment claims against the Appellant.

At the hearing, the Respondent was represented by Lisa Snodgrass, Investigations and Fraud Management. The Appellant appeared and represented himself. Both witnesses were placed under oath and the following exhibits were entered as evidence.

**Department's Exhibits:**

- D-1 inROADS SNAP and Healthcare application, dated January 2, 2020  
Case Comments, dated January 3 through 13
- D-2 SNAP Claim Determination form for January 2020  
Food Stamp Claim Calculation Sheet for January 2020  
Case Benefit Summary  
Income Chart, January 2020
- D-3 People's Access to Help (PATH) SNAP application, dated November 10, 2020
- D-4 IPACT Marriage Results  
Food Stamp Claim Determination forms: February through April 2021  
Food Stamp Claim Calculation Sheets: February through April 2021

- Case Benefit Summary: December 2020 through October 2021  
Income Chart, March 2021 and October 2020
- D-5 Notice of SNAP eligibility, dated October 31, 2022
- D-6 Food Stamp Claim Determination form: March through October 2023  
Food Stamp Claim Calculation Sheets: March through October 2023  
Case Benefit Summary: February through October 2023  
Income Charts: March and October 2023
- D-7 SNAP Interim Contact Form, scanned March 23, 2023  
Case Comments: January through March 2023
- D-8 SLER Claim Determination forms for February 2022, September 2022  
LIEAP Budget screenprint  
Case Comments, dated August 4 through October 3, 2022  
Case Benefit Summaries: February 2022 through September 2023  
Income Chart: October 2021
- D-9 SLER Claim Determination form for December 2022 and September 2023  
Case Benefit Summaries: February 2022 through September 2023  
LIEAP Budget screenprint  
Case Comments: December 7, 2022 through January 3, 2023, and from July 7, 2023 through October 17, 2023  
Income Chart, October 2022
- D-10 Appellant's Employee Wage Data from the fourth quarter 2019 through the first quarter 2024  
[REDACTED] Employee Wage Data from the first quarter 2018 through the first quarter 2024  
Benefit Payment Histories for the Appellant and [REDACTED]  
Child Support Disbursements  
Pay Stubs: [REDACTED] January 2022 through October 2023  
Appellant – [REDACTED] Schools, January 15, 2021 through October 2023  
[REDACTED] Department of Job and Family Services printout: September 2022 through October 2022
- D-11 West Virginia Income Maintenance Manual (WVIMM) excerpts from Chapter 1, Chapter 3, Chapter 4, Chapter 10, and Chapter 11
- D-12 Case Comments from January 3, 2020 through April 11, 2024

**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 issued notices advising the Appellant that client error Supplemental Nutrition Assistance Program (SNAP) repayment claims were being initiated for overallotment of SNAP benefits issued to the Appellant: \$343.00 SNAP from January 7 through January 31, 2020; \$1,290 from February 1, 2021 through March 31, 2021; and \$2,962 SNAP from March 1, 2023 through October 31, 2023. All repayment claims were due to wages/salaries-unreported/incorrect.”
- 2) On July 3, 2024, the Respondent issued notices advising the Appellant Low-Income Energy Assistance Program (LIEAP) repayment claims were being initiated for overissued LIEAP benefits to the Appellant: \$264 on February 2, 2022; \$465 on September 16, 2022; \$449 on December 5, 2022; and \$47 on September 22, 2023 because “under reporting income.”

### 2020 SNAP

- 3) The Appellant received SNAP benefits for a two-person Assistance Group (AG) including the Appellant and [REDACTED]
- 4) In January 2020 and November 2020, the Appellant resided at [REDACTED] (Exhibits D-1 and D-3).
- 5) In the fourth quarter of 2019, the Appellant received \$2,884.67 in wages from [REDACTED] Board of Education; \$5,807.81 in wages from West Virginia Department of Health and Human Resources; and \$1,783.43 in wages from [REDACTED] (Exhibit D-10).
- 6) On January 2, 2020, the Appellant applied for SNAP benefits for himself and [REDACTED] (Exhibit D-1). No other household members were listed (Exhibit D-1).
- 7) The Appellant acknowledged understanding that if he received SNAP benefits, he must report when his total household income exceeded the SNAP gross income limit, that he would be notified of what amount that is, and that he must report by the 10<sup>th</sup> day of the month after the increase happens (Exhibits D-1 and D-3).
- 8) On January 7, 2020, the Appellant completed his SNAP eligibility interview and reported that his \$1,200 monthly gross earned income ended on December 24, 2019 (Exhibit D-1).
- 9) On January 30, 2020, the Respondent received a new-hire alert for the Appellant dated January 13, 2020, from [REDACTED] (Exhibit D-12).
- 10) On February 4, 2020, the Appellant called DoHS and reported he began employment at [REDACTED] (Exhibit D-12).

- 11) On October 1, 2020, during the Appellant's Medicaid review, DoHS recorded "client employed at [REDACTED], took client statement for income" (Exhibit D-12).
  - 12) On November 10, 2020, the Appellant completed an application for SNAP benefits for a household consisting of himself and [REDACTED] (Exhibit D-3).
  - 13) On the application, the *Name of Employer*, *Employment begin and end date*, and *Earning per pay period* sections were left blank for the Appellant (Exhibit D-3).
  - 14) On November 17, 2020, the Appellant completed his SNAP eligibility interview, indicated no change of address or household composition, and reported his employment at [REDACTED] Schools (Exhibit D-12).
  - 15) On November 18, 2020, DoHS received a new-hire alert for [REDACTED] beginning November 4, 2020 (Exhibit D-12).
  - 16) On November 20, 2020, the Respondent received returned mail and updated the Appellant's address to [REDACTED] (Exhibit D-12).
  - 17) The application forms provided that the Appellant must agree to notify the Respondent within 10 days if:
    - The household moves or changes address;
    - There are changes in shelter costs because the household moved;
    - Anyone obtains/loses employment;
    - There are changes in the household's amount or source of earned or unearned income
    - Anyone moves into/out of the household;
    - Any individual in the home starts, finishes, or drops out of school or job training;
    - There are changes in the household's assets
    - Anyone in the household receives a lump sum payment (Exhibit D-3).
  - 18) The notice states that the listed requirements do not apply to SNAP (Exhibit D-3).
  - 19) In December 2020, the Appellant's household consisted of the Appellant, [REDACTED], [REDACTED]
- 2020 Wages**
- 20) The Appellant received \$147.93 in wages from the [REDACTED] Board of Education in the first quarter of 2020 (Exhibit D-10).
  - 21) In 2020, the Appellant received wages from [REDACTED]: \$6,539 in the first quarter of 2020; \$7,847 in the second quarter of 2020; \$9,153 in the third quarter; and \$4,180.44 in the fourth quarter (Exhibit D-10).

- 22) The Appellant received \$1,331.37 in wages from the [REDACTED] Board of Education in the fourth quarter of 2020 (Exhibit D-10).
- 23) The Appellant received \$106.00 in wages from [REDACTED] in the fourth quarter of 2020 (Exhibit D-10).
- 24) [REDACTED] received \$10,842.16 in wages from [REDACTED] Inc. in the fourth quarter of 2020 (Exhibit D-10).

### **2021 SNAP**

- 25) On April 2, 2021, DoHS processed the Appellant's review form and recorded: "Marked that he is married now and added spouse to AG" and "Yes is indicated to changes in [REDACTED] earned income. [Appellant] marked he has returned to sub teaching and earning 80-1100.00 bi-weekly" (Exhibit D-12). The record indicates the case was pending for verification of income (Exhibit D-12).
- 26) On April 2, 2021, the DoHS case comments reflect "He states [REDACTED] is employed and paid bi-weekly" (Exhibit D-12).
- 27) On April 2, 2021, DoHS recorded that the Appellant reported [REDACTED] was pregnant (Exhibit D-12).
- 28) On September 22, 2021, DoHS contacted [REDACTED] to complete the eligibility interview for her SNAP People's Access to Help (PATH) application for a five-person AG (Exhibit D-12).
- 29) [REDACTED] reported that her September 2021 employment ended, and the Appellant's [REDACTED] Board of Education employment was ongoing (Exhibit D-12).
- 30) In November 2021, [REDACTED] moved out of the AG's household.
- 31) During the Appellant's November 23, 2021, Medicaid review, the DoHS recorded on December 3, 2021, that the AG reported the Appellant's [REDACTED] Board of Education gross monthly income at \$1,833.88 (Exhibit D-12).
- 32) On December 3, 2021, [REDACTED] reported by phone that [REDACTED] was born and the DoHS added the child to the case (Exhibit D-12).
- 33) On December 3, 2021, DoHS recorded "no change in address or household" and "no change in income" (Exhibit D-12).
- 34) The December 3, 2021 case comments do not reflect the number of AG members the Medicaid eligibility was based on or which children were included in the AG (Exhibit D-12).

**2022 LIEAP and SNAP**

- 35) On February 2, 2022, the DoHS Worker recorded that the Appellant applied for LIEAP benefits and reported [REDACTED] income (Exhibit D-12).
- 36) On February 17, 2022, the Respondent approved the Appellant's eligibility for \$264 LIEAP benefits (Exhibits D-8 and D-12).
- 37) On February 17, 2022, the AG's SNAP allotment decreased to \$194 because the household's earned income increased (Exhibit D-12).
- 38) On February 18, 2022, the DoHS supervisor reviewed the case and recorded, "appears correct" (Exhibit D-12).
- 39) In determining the Appellant's February 2022 LIEAP eligibility, the Respondent considered \$4,069.04 gross earned income and \$309 unearned income to calculate \$4,378 total gross income (Exhibit D-8).
- 40) On April 13, 2022, DoHS processed the Appellant's SNAP eligibility review form, recorded the household as a six-person AG, and noted "no other changes" (Exhibit D-12).
- 41) The Appellant's ongoing SNAP benefits were approved (Exhibit D-12).
- 42) On September 16, 2022, DoHS authorized a supplemental payment of \$465 to the Appellant's AG because the AG received regular LIEAP and/or emergency LIEAP (Exhibit D-8).
- 43) On October 3, 2022, [REDACTED] completed the SNAP eligibility interview and reported she was employed at [REDACTED] and that the Appellant was employed at [REDACTED] Schools (Exhibits D-8 and D-12).
- 44) On October 3, 2022, DoHS recorded that the Appellant and [REDACTED] received child support and that the verification was pending (Exhibit D-12).
- 45) When completing the October 3, 2022 SNAP eligibility interview, DoHS recorded the end of [REDACTED] pregnancy and added [REDACTED] to the AG to comprise a six-person household (Exhibit D-8).
- 46) On October 18, 2022, DoHS recorded that "all verifications for SNAP and medical" were received and the AG's SNAP benefits were approved (Exhibit D-12).
- 47) On October 31, 2022, DoHS issued a notice advising the Appellant had been approved for \$235 monthly SNAP benefits, beginning November 1, 2022, for a six-person AG that included the Appellant, [REDACTED] (Exhibit D-5).

- 48) The October 31, 2022 notice advised the AG must contact the Respondent if the AG's gross income increased to more than \$6,200 per month (Exhibit D-5).
- 49) The October 31, 2022 SNAP eligibility determination was based on \$4,903.61 gross earned income and \$59 gross unearned income (Exhibit D-5).
- 50) The Respondent applied a \$980.72 earned income deduction, \$258 standard deduction, and \$43.40 support payment deduction to determine the Appellant's \$3,680.49 net adjusted income (Exhibit D-5).
- 51) The Appellant received \$449 LIEAP on December 5, 2022 (Exhibit D-8 and Exhibit D-9).
- 52) When determining LIEAP eligibility for a six-person AG, DoHS considered \$4,903.61 gross earned income and \$59 gross unearned income (Exhibit D-9).

### **2022 Wages**

- 53) The AG received monthly child support payments of \$59 from August 2021 through June 2024 (Exhibit D-10)
- 54) On February 25, 2022, [REDACTED] received an additional \$83.65 in child support payment (Exhibit D-10).
- 55) [REDACTED] earned \$4,492.85 in the third quarter of 2022 and \$5,468.12 in the fourth quarter of 2022 from [REDACTED] (Exhibit D-10).
- 56) The Appellant earned \$6,333.87 in the third quarter of 2022 and \$12,670.74 in the fourth quarter of 2022 from the [REDACTED] Board of Education (Exhibit D-10).
- 57) [REDACTED] earned regular gross earned income from [REDACTED]: \$229.67 on September 2, 2022; \$286.33 on September 9, 2022; \$272.50 on September 16, 2022; \$211.67 on September 23, 2022; \$359.63 on September 30, 2022; and \$379.17 on October 7, 2022 (Exhibit D-10).
- 58) The Appellant was paid \$1,877.29 gross earned income on September 15, 2022, from [REDACTED] Board of Education (Exhibit D-10).
- 59) On September 30, 2022, the Appellant was paid \$1,931.29 gross earned income comprised of \$1,877.29 in regular wages and \$108 *supplemental pay* (Exhibit D-10).

### **SNAP and LIEAP 2023**

- 60) On January 31, 2023, the Respondent processed the Appellant's Medicaid review form and noted no change in the address or household composition (Exhibit D-12).
- 61) The January 31, 2023 record did not indicate which household members and income amounts were included in the eligibility decision (Exhibit D-12).



- 62) On March 23, 2023, the Appellant submitted a SNAP Interim Contact form and indicated that the five-person household consisted of himself, [REDACTED] (Exhibit D-7).
- 63) The Appellant marked *No* to the inquiry of whether the household's income had increased or decreased from \$4,903.61 (Exhibit D-7).
- 64) The Appellant marked *No* to the inquiry of whether anyone had a change in earnings because they changed, started, or stopped a job (Exhibit D-7).
- 65) The Appellant marked *No* to the inquiry of whether the source of the household's \$59 unearned income increased or decreased by more than \$125 since the AG last reported a change (Exhibit D-7).
- 66) The Appellant applied a handwritten signature certifying the statements on the form were true and correct to the best of his knowledge (Exhibit D-7).
- 67) On March 27, 2023, the Respondent processed the Appellant's SNAP Interim Contact form and noted no changes in household composition or income (Exhibit D-12).
- 68) The Appellant received \$47 LIEAP on September 22, 2023, based on the previous receipt of regular LIEAP and/or emergency assistance LIEAP (Exhibits D-8 and D-9).

#### **2023 Income**

- 69) [REDACTED] received [REDACTED] wages of \$346 on January 6, 2023; \$482.84 on January 13, 2023; \$580.23 on January 20, 2023; and \$580.23 on January 27, 2023 (Exhibit D-10).
- 70) The Appellant received [REDACTED] Board of Education wages of \$2,039.29 on January 13, 2023, and \$1,931.29 on January 30, 2023 (Exhibit D-10).
- 71) [REDACTED] received \$580.59 on March 3, 2023; \$581.68 on March 10, 2023; \$138.65 and 598.72 on March 17, 2023; \$582.40 on March 24, 2023; and \$581.68 on March 31, 2023 (Exhibit D-10).
- 72) The Appellant received \$2,687.29 on March 15, 2023, and \$2,585.29 on March 30, 2023 (Exhibit D-10).

### **APPLICABLE POLICY**

#### **SNAP**

**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 ....

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 advance notice.

**WVIMM § 10.4.2.A *Limited Reporting*** provides that when approved with a gross non-excluded income at or below 130% of the Federal Poverty Level (FPL), an AG must report when the total gross non-excluded earned and unearned income of the Income Group (IG) exceeds 130% of the FPL for the number of individuals in the original AG.

When approved with a gross non-excluded income above 130% of the FPL, an AG must report when the total gross non-excluded earned and unearned income of the IG exceeds 200% of the FPL for the number of individuals in the original AG.

**WVIMM § 10.4.3.B *Decrease in Benefits*** provides that when a 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 fails to report on time, and this is the only reason the change could not be made within 13 days of the advance notice period.

**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.

**WVIMM § 4.3 *Charts of Income Sources*** provides that for income belonging to or for the benefit of a child, the source must be known, and the chart of income sources consulted for how the income is treated.

**WVIMM § 4.3.13 *Child Support***: For SNAP and WV WORKS, child support is treated as unearned income.

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

**WVIMM § 4.4.1 *Budgeting Method*** provides that eligibility is determined and benefits are issued monthly; therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. The following information applies to earned and unearned income.

For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the assistance group (AG). Income is projected; past income is used only when it reflects the income the client reasonably expects to receive during the certification period.

**WVIMM § 4.4.1.A *Methods for Reasonably Anticipating Income*** provides that past income must be used only when both of the following conditions exist for a source of income:

- Income from the source is expected to continue into the certification period; and
- The amount of income from the same source is expected to be more or less the same. For these purposes, the same source of earned income means income from the same employer, not just the continued receipt of earned income.

**WVIMM § 4.4.1.B *Consideration of Past Income*** provides that income is determined as follows:

**Step 1:** Determine the amount of income received by all persons in the Income Group (IG) in the 30 calendar days before the application/redetermination date, or interview date when the interview is completed on a different day than when the application is received. The income from this 30-day period is the minimum amount of income that must be considered. When, in the Worker's judgement, future income may be more reasonably anticipated by considering income from a longer period, the Worker considers income for the period he determines to be reasonable. All pay periods during the appropriate period must be considered and must be consecutive.

The year-to-date amounts on check stubs may only be used when the client has verification of all payment amounts whether used or not but is missing one.

**Step 2:** Determine if the income from the previous 30 days is reasonably expected to continue into the new certification period. If it is not expected to continue, the income from this source is no longer considered for use in the new certification period. If it is expected to continue, determine if the amount is reasonably expected to be more or less the same.

**Step 3:** Once the Worker has determined the income to be considered and the time period for which they are considered, he must then determine if any source should be considered for future income ...

**WVIMM § 4.4.1.D *How to Use Past and Future Income*** provides that After the Worker determines all of the income sources that are to be considered for use, the worker determines the amount of monthly income, based on the frequency of receipt and whether the amount is stable or fluctuates as described below.

When income is received more often than monthly and the amount fluctuates, find an average amount per period and convert to a monthly amount. Conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows:

- Weekly amount x 4.3
- Biweekly amount (every two weeks) x 2.15

Proration of income to determine a monthly amount is accomplished by dividing the amount received by the number of periods it is intended to cover as follows:

- Quarterly amount (every three months) ÷ 3

The purpose of finding an average amount of fluctuating income is to even out the highs and lows in the amount of income. The client is not, then, required to report fluctuating income each pay period and the Worker is not required to change income monthly. See Section 10.4.2 for SNAP reporting requirements. Sometimes the client receives higher benefits than he would if actual income were used and sometimes, he receives lower benefits ...

**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 § 273.12(a)(2)** provides that certified households must report changes within 10 days of the date the change becomes known to the household, or at the State agency's option, the household must report changes within 10 days of the end of the month in which the change occurred.

**Code of Federal Regulations 7 CFR 273.10(c)(1) Determining Income – Anticipating income** provides in the relevant sections:

- i. The State agency shall take into account the income already received by the household during the certification period and any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the State agency. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average. Households shall be advised to report all changes in gross monthly income as required by § 273.12.
- ii. Income received during the past 30 days shall be used as an indicator of the income that is and will be available to the household during the certification period. However, the State agency shall not use past income as an indicator of income anticipated for the recertification period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated

income, the State agency and the household may use a longer period of past time if it will provide a more accurate indication of anticipated fluctuations in future income .... The State agency shall not use past income as an indicator of anticipated income when changes in income have occurred or can be anticipated during the certification period.

**Code of Federal Regulations 7 CFR 273.10(c)(3) *Income averaging*** provides in relevant sections:

- i. Income may be averaged in accordance with methods established by the State agency to be applied Statewide for categories of households ... An average must be recalculated at recertification and in response to changes in income, in accordance with § 273.12(c), and the State agency shall inform the household of the amount of income used to calculate the allotment.

**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)** provide 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.

## **LIEAP**

**WVIMM § 21.6.3 *Cases Approved in Error*** provides that when an ineligible case is approved, an overpayment occurs, or an incorrect payment is made, regardless of who makes the error, the Worker must take the action outlined in Section 21.6.4 below. The State must be reimbursed for all payments issued in error.

**WVIMM § 21.6.4 *Repayment*** provides that the repayment process involves notifying the client that repayment is necessary for a certain amount, obtaining the client's signature on an agreement form to repay a certain amount, receiving the funds from the client, and returning the funds to the Office of Client Accounts.

**WVIMM § 21.6.4.A *Repayment Agreement*** provides that when the client and the Worker discuss repayment, the client must agree to repay by any of the three methods indicated on the DFA-LIEAP-3 form. The Worker must enter the client's name, the amount of repayment, the type of repayment, and the type of error. The Worker must ensure the client understands the statement concerning the disposition of the remaining balance when not paid by the due date. The client must sign and date the form along with the Worker and Supervisor. The original goes to the client and the copy is placed in the case record ....

**WVIMM § 21.6.4.B *Refusal to Sign the Repayment Agreement or Make a Repayment*** provides that the Worker must explain the Fair Hearing process to the client if he refuses to sign the DFA-LIEAP-3 form. In addition, the Worker must follow up the discussion with a letter that states that

certain LIEAP benefits the client may otherwise be entitled to receive will be affected by his refusal to sign the repayment agreement.

When the client refuses to make repayment, the amount owed is deducted from future LIEAP benefits. These deductions are assessed only after the Worker has completed the instructions outlined above. Repayment deductions can only be imposed during a program year following the program year in which the client refused to repay.

The Worker must record in the eligibility system case comments that the client may be eligible for LIEAP, but that payment must be reduced or withheld to satisfy repayment for a previous year.

**WVIMM § 21.6.4.F *Client Notification*** provides that the client must receive written notification of all decisions made on the Regular LIEAP payment or repayment, any adjustments to the Regular LIEAP payment, and/or fulfillment of the repayment.

### **DISCUSSION**

The Respondent argued that the Appellant was overissued SNAP and LIEAP benefits over multiple periods due to client errors reporting changes in the AG's income. The Respondent is required to issue a notice advising the Appellant of any proposed adverse action and the basis for the proposed action. The Respondent's notices reflected that client errors due to unreported income resulted in SNAP and LIEAP benefit overissuance.

The Appellant contested the repayments. During the hearing, the Appellant repeatedly refuted the Respondent's income calculations and argued that the Respondent did not update the AG's household size after changes had been reported. During the hearing, the Appellant argued that when requested by the Respondent, the household submitted verification records in person and that the AG reported changes at review. The Appellant testified that the AG made phone calls to the Respondent between eligibility reviews to report changes but affirmed that he did not report combining households until his review.

During the hearing, the Appellant testified that he did not receive all the relevant benefit award letters and argued that he was unaware that subsequent LIEAP payments were awarded to the household after the initial issuance and believed they were ineligible for LIEAP when the payments were issued.

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 and LIEAP benefits than he was entitled to because of errors made by the AG regarding income reporting. The evidence had to also demonstrate that the Respondent followed the noticing and repayment procedures stipulated in the policy.

### **SNAP**

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 AG's SNAP entitlement and the SNAP allotment the AG was entitled to receive. Repayment claims are based on the establishment of a client or agency error. The notices indicated that the Respondent's repayment claim was based on client errors in reporting income. Identifying the period and source of the error is necessary for determining the first date of SNAP over-issuance. Therefore, the matter must be reviewed as a chronological series of events.

The Respondent had to demonstrate by a preponderance of evidence that the Appellant was overissued SNAP benefits he was not entitled to because he failed to accurately report changes in his household income. To establish that the Appellant made a client error by failing to report his changed income, the evidence had to demonstrate that the Appellant was notified of his reporting responsibility and failed to comply.

The regulations provide that an income average must be recalculated at certification and in response to changes in income and that the Respondent must inform the household of the amount of income used to calculate the allotment. The AG is subject to limited reporting requirements and is required to report changes related to eligibility during the SNAP eligibility reviews. During the eligibility determination, the Respondent has a responsibility to inform the AG of their reporting duties in between determinations.

#### ***Reliability of Evidence***

During the hearing, the Appellant contested the number of persons listed in the AG and the amount of monthly income reflected on the Respondent's forms and calculation sheets. The evidence revealed that the forms contained errors regarding the number of AG members considered. The Appellant argued that the submitted paystubs did not support the income amounts relied upon by the Respondent. Food Stamp Claim Determination forms are tools used by the Respondent to determine the amount of repayment owed. Information contained on the forms must be corroborated by evidence regarding the AG's verified income and household composition.

The Appellant contested the handwritten comments reflected on the wage data pages. As the handwritten notations were not original to the record or relevant to verifying the amount of the household's income, they were not given weight in this decision.

The Appellant argued that the only evidence submitted for review by the Respondent were the documents that supported the Respondent's math. During the hearing, the Respondent submitted additional case comments for the entire repayment period. The evidence revealed that the DoHS case comments contained errors reflecting reported changes by the AG. The December 3, 2021 case comments reflected the birth of [REDACTED] and "no changes" to the household; later, the October 3, 2022 case comment ended [REDACTED] pregnancy and reflected [REDACTED] birth again.

During the hearing, the Respondent was permitted a recess to review the agency's record and to provide testimony regarding what household members were reported on the November 23, 2021 Medicaid form to explain the Respondent's December 3, 2021 case comment. The Respondent's representative testified that the form reflected the Appellant, [REDACTED] was not included in the Respondent's representative's testimony although the December 3, 2021 case comment revealed the AG reported her as a household

member. In the same testimony, the Respondent's representative asserted that the Appellant indicated being married to [REDACTED] on the form but was not married to her at that time. This testimony was inconsistent with the Respondent's submitted marriage record for the Appellant and with the Appellant's testimony. Later, the Respondent's representative testified that she was looking at an incorrect date. The Respondent's representative's testimony regarding what was reported by the AG on November 23, 2021, was unreliable.

The evidence revealed that the Appellant reported on his March 23, 2023 SNAP review form that [REDACTED] was not a household member (Exhibit D-7); however, the Respondent continued to record in the case comments, "no change" in the number of persons listed in the home (Exhibit D-12). As the Respondent's evidence and testimony contained multiple errors and sufficient corroborating reliable records — such as applications that corroborate what was recorded by DoHS and reported by the household — were not submitted, the Appellant's argument that changes were reported by the AG but not recorded by the Respondent cannot be ruled out.

### **January 7 through January 31, 2020, SNAP Repayment**

The notice reflected the AG received \$343 more SNAP benefits than the Appellant was entitled to receive from January 7 through January 31, 2020, because of unreported or incorrect wages or salaries. During the hearing, the Respondent's representative specifically argued that the Appellant did not report his [REDACTED] Board of Education employment on his January 2020 SNAP application.

At the hearing, the Appellant argued that he did not work at [REDACTED] Board of Education during that period and did not begin substitute teaching for the [REDACTED] Board of Education until August 2020. The Appellant testified that he reported \$0 income on the January 2020 application because he could anticipate earning \$0 monthly income.

The policy stipulates that irregular sources of income that cannot be anticipated into the certification period may not be considered when determining SNAP eligibility. The evidence reflected that in the fourth quarter of 2019, the Appellant earned wages from various employers and did not receive wages from those sources in the following quarter, which indicated the Appellant did not anticipate receiving income from those sources in the new certification period. The Appellant reported the end of his monthly income on his application form.

The Appellant's paystubs reveal that he received \$591.72 gross earned income from [REDACTED] Schools for substitute teaching on December 14, December 16, December 21, and December 23, 2020 (Exhibit D-10). The 2019 fourth-quarter wage data did not reflect any wages earned from [REDACTED] Schools (Exhibit D-10). The submitted paystubs do not reveal [REDACTED] Board of Education earned income before December 2020 (Exhibit D-10). Further, the submitted wage data did not reflect [REDACTED] School employment for the first quarter of 2020 (Exhibit D-10).

The Appellant testified that he was paid for one day of substitute teaching in [REDACTED] during the first quarter of 2020. The [REDACTED] first quarter 2020 wage data appears to be consistent with the Appellant's testimony that he only received one day of wages from that employment source. The Appellant testified that later in January 2020, he was hired with [REDACTED] as a social worker. Case comments revealed that on January 30, 2020, the Respondent



received a new-hire alert dated January 13, 2020, for [REDACTED] (Exhibit D-12). Third-party sources of reporting, such as new hire alerts, require verification. The evidence did not indicate that verification was requested at this juncture. The Appellant reported his new [REDACTED] employment on February 4, 2020, before the 10<sup>th</sup> day of the month following the change.

While the evidence revealed the Appellant was hired at [REDACTED] in January 2020, because the Appellant is subject to limited reporting requirements, the evidence must demonstrate when the AG began receiving income that exceeded the income reporting limit to determine when he was required to report the change. No paystubs, employer statements, or other documentary evidence were submitted to verify what income and pay dates the Respondent relied on when calculating the AG's income to determine he was overissued SNAP benefits in January 2020. The preponderance of evidence did not demonstrate that the Appellant failed to report his employment and income in January 2020.

During the hearing, the Respondent's representative argued that the Appellant agreed on the application form to report changes within 10 days. On the January 2020 application form, the Appellant acknowledged his understanding that if he received SNAP benefits, he must report when the total household income exceeds the SNAP gross income limit by the 10th day of the month after the increase happens. The Appellant further acknowledged that he understood he would be notified of what that amount was (Exhibit D-1).

The submitted evidence and January 7, 2020 case comments failed to establish that the Appellant was informed of what this amount was. Even though the evidence did not establish that the Respondent properly notified the Appellant of his reporting amount, the evidence revealed that the Appellant reported his [REDACTED] employment onset before the 10<sup>th</sup> day of the month following the change.

The evidence failed to verify that the Appellant was informed of his reporting requirement as instructed by the policy. Further, the evidence failed to establish that the Appellant failed to report any employment for this period. Therefore, it cannot be affirmed that he committed a client error by failing to comply with his communicated reporting requirements. The submitted evidence revealed that the Respondent made an error by failing to notify the Appellant of his reporting requirements at his January 2020 SNAP eligibility determination. Pursuant to the policy, a SNAP overissuance repayment claim due to an agency error may only be established from the one year preceding the date of discovery. As the date of discovery was not established by the submitted evidence and the Appellant was notified of repayment owed due to *client error*, not *agency error*, a repayment claim for this period due to an agency error cannot be affirmed.

### **February 1, 2021 through March 31, 2021 SNAP Repayment**

The notice reflected the AG received \$1,290 more SNAP benefits than the Appellant was entitled to receive from February 1, 2021, through March 31, 2021, because of unreported or incorrect wages or salaries. During the hearing, the Respondent argued that the Appellant was overissued SNAP benefits, beginning in February 2021, because he failed to report his marriage.

If the Appellant had been properly notified of his reporting responsibilities at his January 2020 eligibility determination, he would have been required to report changes in his income when he combined households with his spouse. While the evidence failed to establish that the Appellant was notified of his reporting requirements between reviews, the Appellant was required to accurately report changes to his income during his November 2020 SNAP eligibility determination.

The evidence revealed the Appellant left the employment section of his form blank but reported his [REDACTED] Board of Education employment during the SNAP eligibility interview. The day after his interview, DoHS received a new-hire alert for [REDACTED] employment beginning on November 4, 2020 — before the Appellant’s November 10, 2020 application. The supplied wage data reflected the Appellant received \$106.00 in wages from [REDACTED] in the fourth quarter of 2020. No other income from this source was reflected and the supplied evidence did not indicate when the Appellant received this income. The decreased quarterly wages from [REDACTED] in the fourth quarter of 2020 indicate that the Appellant’s employment ended sometime in the fourth quarter of 2020. The submitted evidence does not reveal when that employment ended.

The fourth quarter 2020 earnings revealed the Appellant received \$1,331.37 in wages from the [REDACTED] Board of Education. The Appellant testified that he began substitute teaching in November 2020 and that he did not report the income because his employment was unreliable. The Appellant testified that during holiday school breaks, substitute teachers do not get paid. No evidence was submitted to refute that the wages received by the Appellant in the fourth quarter of 2020 were from substitute employment not likely to continue into the certification period. The preponderance of evidence failed to indicate that the Appellant failed to report income from any source he expected to continue into the certification period.

#### *Change of Household Composition*

During the hearing, the Appellant testified that sometime between November and December 2020, he combined households with [REDACTED]. The submitted applications revealed that the household had not yet combined at the time of the Appellant’s November 10, 2020 application. While the submitted evidence failed to establish what date the Appellant combined households with [REDACTED], the Respondent’s case comments indicate that the Appellant’s recorded change of address occurred on November 20, 2020, ten days after the Appellant submitted his SNAP application (Exhibit D-12). Based on the Appellant’s testimony, the AG would have consisted of the Appellant, [REDACTED] in December 2020.

The Appellant was subject to limited reporting requirements that stipulate the change in household composition and income must be reported within 10 days of the end of the month in which the change occurred. Because the change in household composition likely occurred in November 2020, the Appellant would have been required to report the income change by December 10, 2020, if the household was purchasing and preparing meals together. The evidence reflected the Appellant was married on December 15, 2020, and that the Appellant reported his marriage during his April 2021 SNAP eligibility review. [REDACTED] was required to be included in the AG as the Appellant’s spouse and for her income to be considered.

The 2020 application forms provide a list of household changes to report within 10 days; however, the list provides a disclaimer that indicates that those requirements do not apply to SNAP benefits and that the SNAP reporting requirements were explained in the program section. The program section explains that the Appellant must report when the household income exceeds the SNAP gross income limit within ten days and that the Appellant would be notified of that amount. The program section did not address the reporting of household members.

A notice was not supplied to indicate what gross monthly income amount the Appellant's November 2020 SNAP benefit approval was based on or the Appellant's reporting requirements at that time. Further, the evidence did not reveal that DoHS instructed the Appellant regarding his reporting responsibilities during his November 2020 SNAP eligibility interview.

The regulations require DoHS to keep records in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination. The case comments did not indicate the DoHS worker notified the Appellant of his reporting responsibilities during his January and November 2020 eligibility reviews.

As the evidence failed to establish that the Appellant was informed of his reporting requirement as instructed by the policy, it cannot be affirmed that he committed a client error by failing to comply with his reporting requirements. The submitted evidence revealed that the Respondent made an error by failing to notify the Appellant of his reporting requirements at his January 2020 and November 2020 SNAP eligibility determinations.

### **September 2021 SNAP Review**

The case comments indicate that [REDACTED] completed the SNAP eligibility review for a five-person household and participated in the eligibility interview in September 2021 — the end of the third quarter. The submitted evidence and case comments failed to reveal that DoHS informed [REDACTED] of the AG's reporting responsibilities. The preponderance of evidence indicated DoHS made an error by failing to notify the AG of their reporting responsibilities between the September 2021 and April 2022 SNAP eligibility determinations; therefore, a client error repayment claim cannot be established for this period.

### **November 2021 Change in Household Composition**

During the hearing, the Appellant testified that [REDACTED] moved out of the residence in November 2021— after the September 2021 SNAP eligibility review — and moved back into the residence in March 2024.

The Respondent's representative testified that DoHS was unaware, until the hearing, that [REDACTED] left the residence in November 2021 and that the related repayment claim forms were incorrect and should reflect higher repayment amounts. The evidence revealed that in November 2021, the AG completed a Medicaid review and added [REDACTED] to the AG on December 3, 2021. However, the application was not provided to establish whether the AG reported [REDACTED] out of the residence and no testimony was provided regarding this record to indicate that the Respondent reviewed it when determining whether the AG timely reported changes to the household. Under the policy, changes reported during eligibility determinations for other programs

are changes that must be acted on. The case comments do not indicate what AG size the Medicaid approval was based on. Therefore, it cannot be ruled out that the AG reported [REDACTED] out of the residence during the Medicaid eligibility review.

As the evidence did not establish that the Appellant was informed of his requirement to report household changes in between reviews and the November 2021 Medicaid application was not provided to corroborate which household members were reported, a SNAP overissuance resulting from a client error made by the Appellant's failure to report household changes in between SNAP eligibility determinations cannot be affirmed and an agency error in recording the reported information cannot be ruled out. The regulations require the Respondent to keep sufficient records to support the Respondent's actions.

An AG member absent from the residence for thirty days may not be included in the AG. Based on the Appellant's report during the hearing of [REDACTED] absence from the home in November 2021, the AG would have consisted of a four-person household comprised of the Appellant, [REDACTED]. On December 2, 2021, [REDACTED] reported the birth of [REDACTED], and the household returned to a five-person AG comprised of the Appellant, [REDACTED]. The evidence revealed that beginning in December 2021, the Appellant's AG consisted of five persons.

#### **February 17, 2022 SNAP Reduction**

On February 17, 2022, the Respondent's case comments reflect that the AG's SNAP allotment decreased to \$194 during a LIEAP determination because the household's earned income increased. At the time of this determination, the AG was a five-person household comprised of the Appellant, [REDACTED]. As the Respondent's LIEAP record reflects a six-person AG at the time of SNAP reduction, it appears the Respondent included [REDACTED] as still residing in the home when calculating the new SNAP allotment amount. As SNAP allotment is based on AG size and income, the evidence established that SNAP benefits issued based on a six-person AG at this time would have been more than a five-person AG would be entitled to. The Respondent must prove by a preponderance of evidence that the AG was overissued SNAP benefits due to a client error in household reporting. To demonstrate that the AG failed to comply with SNAP reporting requirements, the preponderance of evidence had to demonstrate that the Respondent informed the AG of the reporting requirements, and the AG failed to comply.

In February 2022, the Appellant was in between eligibility determinations and would have been subject to limited reporting requirements. As the evidence did not indicate the Appellant was advised of his reporting requirements during this period and the evidence failed to affirm which household members were reported during the LIEAP eligibility decision, it cannot be affirmed that the AG failed to comply with the reporting requirements.

#### **April 13, 2022 SNAP Review**

The case comments revealed the AG submitted a SNAP review form that was processed on April 13, 2022, and noted SNAP eligibility was approved based on a six-person AG and "no other changes." The case comments did not reveal the income used to determine the AG's eligibility or establish whether the family was informed of the change reporting requirements. The form was

not provided for evidentiary review. Further, the submitted evidence did not indicate the Respondent reviewed this record when determining the Appellant's SNAP repayment claim. As the reported household members and income reported on the form during this period cannot be affirmed based on the submitted evidence, SNAP overissuance due to a client error cannot be affirmed.

### **October 2022 SNAP**

The case comments revealed that the AG submitted a SNAP review processed on October 3, 2022. Even though the record reflected DoHS was advised of [REDACTED] birth and the December 2021 case comments noted [REDACTED] was already added to the AG, on October 3, 2022, DoHS recorded that [REDACTED] was added to the AG.

On October 31, 2022, DoHS issued a notice advising the Appellant had been approved for \$235 monthly SNAP benefits, beginning on November 1, 2022, for a six-person AG that included the Appellant, [REDACTED] (Exhibit D-5). The notice advised that the AG must report when the household's income exceeded \$6,200. During the hearing, the Appellant did not dispute receiving this notice. The notice did not indicate a reporting requirement regarding changes in household composition.

### **March through October 2023 SNAP Repayment**

The notice reflected the AG received \$2,962 more SNAP benefits than the AG was entitled to receive from March 1, 2023, through October 31, 2023, because of unreported or incorrect wages or salaries. During the hearing, the Respondent's representative testified that the AG's income exceeded \$6,200 in January 2023. To prove that the AG was overissued SNAP benefits, beginning in March 2023, the evidence had to reveal that the AG was informed of their reporting responsibility and failed to report when the AG's income exceeded \$6,200 and resulted in SNAP overissuance to the AG, beginning in March 2023.

The Regulations stipulate that an income average must be recalculated at certification and in response to changes in income and that the Respondent shall inform the household of the amount of income used to calculate the allotment. The evidence established the AG was informed of their reporting responsibility in October 2022.

The case comments reveal that on January 31, 2023, the AG completed a Medicaid review. The household size and income reported at that time cannot be corroborated as the forms were not supplied for review and the case comments do not contain the relevant information.

The evidence revealed that the Appellant reported on his March 23, 2023 SNAP review form that [REDACTED] was not a household member (Exhibit D-7); however, the Respondent continued to record in the case comments, "no change" in the number of persons listed in the home (Exhibit D-12). The Respondent's March through October 2023 repayment claim forms were based on a corrected household size of six persons. The evidence revealed that the AG consisted of five persons at that time. The submitted forms were unreliable for corroborating the correct AG allotment amount for that period.

A *de novo* review of the supplied paystubs commands a repeated calculation process for each month to determine whether a SNAP overissuance occurred because of a client error made when the AG's household exceeded the \$6,200 reporting income limit and failed to report the change as required.

The policy stipulates that child support, salaries, and wages are counted as income for SNAP and LIEAP eligibility. The policy requires that a monthly amount of income be determined to establish monthly eligibility. The policy stipulates that only the income the client may reasonably expect to receive during the certification period may be considered when determining SNAP eligibility.

The policy requires an examination of the AG's income in the 30 calendar days before application/redetermination or the interview date when the interview is completed on a different day than when the application is received.

### ***Unearned Income***

During the hearing, the Appellant argued that historically, child support payments are irregular and should not be counted. The Respondent's representative testified that child support was not included when determining the amount of SNAP overissuance. Conversely, the evidence revealed that when determining the AG's eligibility, the Respondent's October 31, 2022 SNAP eligibility calculation included \$59 gross unearned income for [REDACTED]. While the amounts and receipt of the Appellant's child support are not stable, the evidence revealed that [REDACTED] routinely received \$59 monthly child support from August 2021 through June 4, 2024. Pursuant to the evidence, the AG could reasonably expect to receive this amount of unearned income into the certification period; therefore, it must be considered when determining the AG's eligibility.

### ***Earned Income***

The evidence indicated DoHS considered \$4,903.61 gross earned income (Exhibit D-5). The case comments reveal that during the October 2022 eligibility interview, the AG reported [REDACTED] Board of Education employment for the Appellant and [REDACTED] employment for [REDACTED] (Exhibit D-12). The reported income sources are consistent with the submitted wage data and paystubs and do not indicate any unreported income sources. The evidence revealed that during the October 2022 SNAP eligibility review, the AG could reasonably expect to receive income from these sources into the certification period.

Because the Respondent's testimony regarding the use of child support income was inconsistent with the policy instructions and the Respondent's actual inclusion of child support payments, the testimony was unreliable. As paystubs were provided to demonstrate the AG's income in January 2023, quarterly wage data was not needed to determine the AG's gross monthly income.

The submitted paystubs revealed that the Appellant regularly collected extra wage earnings from the same source that could be reasonably expected to continue, although the amounts fluctuated.

To convert [REDACTED] weekly income to a monthly amount, the policy instructs the worker to find an average amount per period to convert to a monthly amount:

\$ 346.93  
482.84

$$\begin{array}{r}
 580.23 \\
 +580.23 \\
 \hline
 1,990.23 \div 4 = \$497.5575
 \end{array}$$

Pursuant to the policy, the weekly gross income is then converted to a monthly amount by multiplying the amount by 4.3 as indicated in the policy:

$$\$497.5575 \times 4.3 = \$2,139.49725 \text{ gross monthly income for } \blacksquare$$

To convert the Appellant’s biweekly income to a monthly amount, the policy instructs the worker to find an average amount per period:

$$\begin{array}{r}
 \$ 2, 039.29 \\
 + 1, 931.29 \\
 \hline
 \$ 3, 970.58 \div 2 \text{ periods} = \$1,985.29 \text{ average bi-weekly gross income}
 \end{array}$$

According to the policy, the bi-weekly gross income is then converted into a monthly amount by multiplying the amount by 2.15:

$\$1,985.29 \times 2.15 = \$4, 268.3735$	gross monthly income for the Appellant
$2, 139.49725$	gross monthly income for $\blacksquare$
$+ \quad 59.00000$	child support
$\$6, 466.87075$	gross monthly income for the Assistance Group

***Client Error***

The Respondent proved by a preponderance of evidence that the AG’s income exceeded the \$6,200 income reporting amount in January 2023. The Appellant was notified he was required to report the income increase within 10 days of the end of the month in which the change occurred and failed to comply. The preponderance of evidence revealed that the AG failed to report the income increase by February 10, 2023, as required. If the change had been reported as required, the first month the benefit allotment would have been affected was March 2023. The Respondent proved by a preponderance of evidence that a client error resulted in a SNAP overissuance beginning in March 2023.

***Client Error***

The evidence revealed the Appellant made a second client error during the March 2023 SNAP eligibility review when he reported household member changes but not income changes on his Interim Contact form as required.

***DoHS Error***

The evidence revealed that during the March 2023 eligibility review, the Respondent made an error by basing the Appellant’s March 2023 SNAP allotment on a six-person AG, not a five-person AG as reported by the Appellant. The evidence revealed that combined March 2023 client and

agency errors resulted in the AG receiving more SNAP benefit allotment than the AG was entitled to, beginning in April 2023.

***Repayment Amount***

The Appellant contested the net income amounts reflected on the Respondent’s Food Stamp Claim Determination forms and argued the amount was inconsistent with the provided paystubs. Based on \$7,129.34 gross earned income converted to \$6,862.34 net income, the Respondent’s forms indicated that the AG should have received \$0 monthly SNAP allotment, beginning in March 2023. The specific deductions applied to the income were not contested.

To convert [REDACTED] weekly income to a monthly amount, the policy instructs the worker to find an average amount per period to convert to a monthly amount:

\$ 580.59	March 3
581.68	March 10
737.37	March 17 combined pays
582.40	March 24
<u>+ 581.68</u>	March 31
\$3,063.72	÷ 5 = \$612.744

Pursuant to the policy, the weekly gross income is then converted to a monthly amount by multiplying the amount by 4.3 as indicated in the policy:

\$612.744 x 4.3 = \$2,634.7992 gross monthly income for [REDACTED]

To convert the Appellant’s biweekly income to a monthly amount, the policy instructs the worker to find an average amount per period:

\$ 2, 687.29	March 15
<u>+ 2, 585.29</u>	March 30
\$ 5, 272.58	÷ 2 periods = \$2,636.29 average bi-weekly gross income

According to the policy, the bi-weekly gross income is then converted into a monthly amount by multiplying the amount by 2.15:

\$2,636.29 x 2.15 = \$5, 668.0235	gross monthly income for the Appellant
2,634.7992	gross monthly income for [REDACTED]
<u>+ 59.00000</u>	child support
\$8, 361.8227	gross monthly income for the Assistance Group

The Appellant argued the paystubs did not match the amount of household income reflected on the SNAP repayment claim forms. Based on the paystubs submitted, the AG’s income amount conflicted with the \$7,129.34 gross income amount indicated on the March 2023 SNAP Claim Determination form.

The preponderance of evidence failed to affirm the Respondent’s repayment calculations were based on an accurate amount of income and AG size, beginning in March 2023. The Respondent’s



repayment calculations beginning in March 2023 cannot be affirmed, the matter must be remanded for recalculation of the AG's SNAP overissuance amount between March and October 2023.

### **LIEAP Repayment**

In February 2022, the case comments reveal the Appellant applied for LIEAP benefits. The DoHS LIEAP application provides instructions to list the household members and indicate income sources for each person. During the hearing, the Respondent's representative argued that the household received more income than they reported on the LIEAP application. The application was not supplied to indicate what income and which household members were reported on the LIEAP application.

During the hearing, the Respondent's representative testified that the unearned child support income was not counted in any eligibility determination. The Respondent's case record revealed that when determining the AG's eligibility, DoHS considered \$4,069.04 gross earned income and \$309 unearned income to calculate \$4,378 total gross income (Exhibit D-8). In February 2022, [REDACTED] received child support payments of \$59 on February 2, 2022, and \$83.65 on February 25, 2022 — after the February 2, 2022 LIEAP Budget screenprint (Exhibit D-10). Combined, these payments do not equal \$309 of unearned income as reflected at the time of the DoHS LIEAP eligibility determination. The submitted records are not clear on what verified unearned income was applied when determining the AG's income amount and eligibility. As the documentary evidence did not reveal what was reported on the AG's LIEAP application and the Respondent's representative's testimony was periodically unreliable throughout the hearing, it cannot be affirmed that the Appellant made a client error reporting his household income in February 2022 that resulted in LIEAP overissuance. However, as the Respondent's record reflected a six-person AG at the time of the LIEAP eligibility determination, it appears the Respondent incorrectly included [REDACTED] as still residing in the home at the time of the Appellant's LIEAP application, resulting in LIEAP overissuance beginning in February 2022.

After the joint client and agency errors in March 2023 that resulted in SNAP overissuance, the AG automatically received successive LIEAP benefits based on the previous LIEAP eligibility decision. The Respondent's representative testified that because the initial LIEAP allotment was erroneous, the subsequent LIEAP issuances based on the initial LIEAP eligibility decision were also overissued to the Appellant.

The policy stipulates that an overpayment occurs, or an incorrect payment is made when an ineligible LIEAP case is approved. According to the policy, regardless of who makes the error, the worker must seek repayment of overissued benefits. The policy stipulates that when the AG refuses to sign a repayment agreement, the Worker must explain the Fair Hearing process to the client and follow up by issuing a letter to the Appellant. During the hearing, the Respondent's representative testified that no other notices were issued to the Appellant.

Under the policy, repayment deductions may only be imposed during a program year following the program year in which the client refused to pay. The submitted evidence failed to establish that the Respondent followed the repayment agreement process or that the Appellant made a refusal to pay. The policy provides that before repayment deductions may be imposed, the client must refuse the repayment agreement.

As the preponderance of evidence failed to establish that the Respondent engaged in a proper repayment process, the AG was not afforded an opportunity to cooperate with a LIEAP repayment agreement, or that the AG refused to pay, the Respondent's decision to establish LIEAP repayment claims against the Appellant cannot be affirmed.

## **CONCLUSIONS OF LAW**

### **SNAP Repayment**

- 1) An unintentional program violation (UPV) repayment claim may be established when a *client error*, made by incorrectly reporting household income, results in the Assistance Group (AG) receiving more SNAP benefits than the AG was entitled to receive.
- 2) The DoHS 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.
- 3) The income average must be recalculated at certification and in response to changes in income and the Respondent shall inform the household of the amount of income used to calculate the allotment.
- 4) After being notified of their income reporting responsibilities, limited reporting SNAP households are required to report changes in household composition and income, within 10 days of the end of the month in which the change occurred.
- 5) The preponderance of evidence demonstrated that the Respondent advised the Appellant in October 2022 that he must report when the AG's income exceeded \$6,200.
- 6) The preponderance of evidence revealed that the AG's income exceeded the \$6,200 income reporting amount in January 2023.
- 7) The preponderance of evidence proved that the Appellant made a client error by failing to report his income exceeding \$6,200 by February 10, 2023, resulting in SNAP overissuance, beginning in March 2023.
- 8) The evidence revealed the Appellant made a second client error during the March 2023 SNAP eligibility review when he reported household changes but not income changes on his Interim Contact form as required.
- 9) The evidence revealed that during the March 2023 eligibility review, the Respondent made an agency error by basing the Appellant's March 2023 SNAP allotment on a six-person AG, not a five-person AG as reported by the Appellant.
- 10) The evidence preponderance of evidence revealed that combined March 2023 client and agency errors resulted in the AG receiving more SNAP benefit allotment than the AG was entitled to, beginning in April 2023.

- 11) A repayment claim must be established for SNAP benefits overissued to the Appellant beginning in March 2023.
- 12) As the preponderance of evidence revealed the Respondent's SNAP repayment calculations were erroneous, the matter must be remanded for recalculation of payments owed.
- 13) The preponderance of evidence failed to prove that the Appellant made a client error by reporting incorrect income that resulted in the Appellant receiving more SNAP benefits than he was entitled to receive from January 7 through January 31, 2020, and from February 1, 2021 through March 31, 2021.

#### **LIEAP Repayment**

- 14) Regardless of agency or client fault, when an ineligible LIEAP case is approved, an overpayment occurs, or an incorrect payment is made and must be repaid.
- 15) The preponderance of evidence revealed that the Respondent incorrectly based the AG's LIEAP eligibility on a six-person AG in February 2022.
- 16) As the preponderance of the evidence established the AG was overissued LIEAP benefits, based on a six-person AG, beginning in February 2022, the Respondent was required to initiate repayment of overissued LIEAP benefits.
- 17) When the AG refuses to sign a repayment agreement, the Worker must explain the Fair Hearing process to the client and follow up by issuing a letter to the Appellant that states certain LIEAP benefits the client may otherwise be entitled to receive will be affected by his refusal to sign the repayment agreement.
- 18) When the client refuses to make repayment, the amount owed is deducted from future LIEAP benefits. These deductions are assessed only after the Worker has completed the instructions outlined above. Repayment deductions can only be imposed during a program year following the program year in which the client refused to pay.
- 19) As the preponderance of evidence failed to establish that the LIEAP repayment process described in the policy was completed, that the AG was allowed an opportunity to enter into a LIEAP repayment agreement, or that the AG refused to pay, the Respondent's decision to establish LIEAP repayment claims against the Appellant cannot be affirmed.

## DECISION

It is the decision of the Hearing Officer to **REVERSE** the Respondent's decision to implement SNAP over issuance repayment claims against the Appellant for SNAP benefits received by the AG from January 7 through January 31, 2020, and from February 1, 2021 through March 31, 2021.

The Respondent's decision to implement SNAP over issuance repayment claim against the Appellant for SNAP benefits received from March through October 2023 is **UPHELD**. The matter is **REMANDED** for recalculation of the owed repayment amount based on the proper AG size and income for the period.

The Respondent's decision to implement a LIEAP over issuance repayment claim against the Appellant for LIEAP benefits received, beginning in February 2022, is **REVERSED**.

**ENTERED this 9<sup>th</sup> day of September 2024.**

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