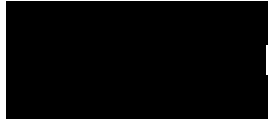




September 11, 2024



RE: [REDACTED] v. OIG/Investigations and Fraud Management  
ACTION NO.: 24-BOR-2987

Dear [REDACTED]:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Human Services. These same laws and regulations are used in all cases to ensure that all persons are treated alike.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Kristi Logan  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Anisha Eye, Investigations and Fraud Management

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

██

**Appellant,**

v.

**Action Number: 24-BOR-2987**

**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  
September 10, 2024.

The matter before the Hearing Officer arises from the March 20, 2024 and July 15, 2024, decision  
by the Respondent to establish a repayment claim of Supplemental Nutrition Assistance Program  
(SNAP) benefits.

At the hearing, the Respondent appeared by Anisha Eye, Investigations and Fraud Management.  
The Appellant represented herself. The witnesses were placed under oath and the following  
documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Hearing Request Notification Form
- D-2 Case Members History
- D-3 SNAP Issuance History-Disbursement
- D-4 SNAP Allotment Determination
- D-5 Non-Financial Eligibility Determination
- D-6 SNAP Claim Determination
- D-7 SNAP Claim Calculation Sheets
- D-8 SNAP Repayment Agreement signed July 12, 2024
- D-9 SNAP Interim Contact Form (PRC-2) received February 1, 2023
- D-10 SNAP PATH Renewal Form received July 30, 2023

- D-11 Case Comments from January 2023 through March 2024
- D-12 Employee Wage Data
- D-13 West Virginia Income Maintenance Manual §1.2.4
- D-14 West Virginia Income Maintenance Manual §11.2
- D-15 West Virginia Income Maintenance Manual §11.6
- D-15a Revised SNAP Claim Determination and SNAP Claim Calculation Sheets and Paystubs

**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 received SNAP benefits for herself and her granddaughter, [REDACTED]
- 2) The Appellant submitted an Interim Contact Form to the Department of Human Services (DoHS) on February 1, 2023 (Exhibit D-9).
- 3) Under the section *Information about the people in your household*, the Appellant marked “yes” for herself and [REDACTED] as living in the household and the Appellant added [REDACTED], her son, as a resident in the household who purchased and prepared meals separately (Exhibit D-9).
- 4) The Appellant submitted a SNAP redetermination form through the DoHS’s online eligibility system on July 30, 2023 (Exhibit D-10).
- 5) The household relationships on the July 30, 2023, redetermination form listed [REDACTED] as the son of [REDACTED] was the uncle of [REDACTED] (Exhibit D-10).
- 6) The Appellant submitted an Interim Contact Form to the DoHS on January 31, 2024 (Exhibit D-11).
- 7) The caseworker discovered the error regarding household relationships and correctly coded [REDACTED] as the father of [REDACTED] (Exhibit D-11).
- 8) [REDACTED] and his earned income was added to the Appellant’s SNAP assistance group.
- 9) A referral for SNAP repayment was made to the Investigations and Fraud Management on February 5, 2024.

- 10) The Respondent issued a notice to the Appellant on March 20, 2024, advising her that a client error repayment claim had been established for SNAP benefits that were overissued from March through September 2023 for \$1,269.
- 11) The Respondent issued a notice to the Appellant on July 15, 2024, advising that a client error repayment claim had been established for SNAP benefits that were overissued from October 2023 through February 2024 for \$1,225.
- 12) The Appellant contacted the Respondent regarding the repayment, and she was advised that she could provide paystubs for [REDACTED] that were received during the repayment period to recalculate the repayment amount.
- 13) Based on the paystubs provided, the Appellant's repayment claim was recalculated as \$1,346 for March through September 2023 and \$1,019 for October 2023 through February 2024 (Exhibit D-15a).

### **APPLICABLE POLICY**

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

(a) **General.**

(1) A recipient claim is an amount owed because of:

(i) Benefits that are overpaid or

(ii) Benefits that are trafficked. Trafficking is defined in [7 CFR 271.2](#).

(2) This claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these regulations.

(3) As a State agency, you must develop a plan for establishing and collecting claims that provides orderly claims processing and results in claims collections similar to recent national rates of collection. If you do not meet these standards, you must take corrective action to correct any deficiencies in the plan.

(4) The following are responsible for paying a claim:

(i) **Each person who was an adult member of the household when the overpayment or trafficking occurred;**

(ii) A person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.

(b) **Types of claims.** There are three types of claims:

(1) Intentional Program Violation (IPV) claim - any claim for an overpayment or trafficking resulting from an individual committing an IPV.

(2) Inadvertent Household Error claim - any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.

(3) Agency Error claim - any claim for an overpayment caused by an action or failure to take action by the State agency.

(c) **Calculating the claim amount** —

(1) Claims not related to trafficking.

- (i) As a State agency, you must calculate a claim back to at least twelve months prior to when you became aware of the overpayment. Do not include any amounts that occurred more than six years before you became aware of the overpayment.
- (ii) Actual step for calculating a claim are –
  - (A) **Determine the correct amount of benefits for each month that the household received an overpayment.**
  - (B) Do not apply the earned income deduction to that part of any earned income that the household failed to report timely when this act is the basis for the claim unless the claim is agency error, then apply the earned income deduction.
  - (C) Subtract the correct amount of benefits actually received. The answer is the amount of the overpayment.
  - (D) Reduce the overpayment amount by any EBT amounts expunged for the household's EBT account.

West Virginia Income Maintenance Manual Chapter 11 explains repayment procedures:

## **11.2 SNAP Claims and Repayment Procedures**

When an assistance group (AG) has been issued more Supplemental Nutrition Assistance Program (SNAP) benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or Intentional Program Violation (IPV) claim. The claim is the difference between the SNAP entitlement of the AG and the SNAP allotment the AG was entitled to receive.

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

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

#### **11.2.3.A UPV Claims**

There are two types of UPVs—client errors and agency errors. A UPV claim may be established when:

- An error by the Department of Health and Human Resources (DHHR) resulted in the overissuance
- An unintentional error made by the client resulted in the overissuance
- The client's benefits are continued pending a Fair Hearing decision and the subsequent decision upholds the DHHR's action
- It is determined by court action or ADH the client did not commit an IPV; the claim is pursued as a UPV
- The AG received SNAP solely because of Categorical Eligibility, and it is subsequently determined ineligible for WV WORKS and/or Supplemental Security Income (SSI) at the time it received it
- The DHHR issued duplicate benefits and the overissued amount was not returned
- The DHHR continued issuance beyond the certification period without completing a redetermination

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

#### **11.2.3.A.1 Agency Errors**

*Failure to Take Prompt Action* - The first month of overissuance is the month the change would have been effective had the agency acted promptly.

*Computation Error* - The first month of overissuance is the month the incorrect allotment was effective.

#### **11.2.3.A.2 Client Errors**

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

#### **11.2.5 Collecting the Claim**

Collection action is initiated against the AG that received the overissuance. When the AG composition changes, collection is pursued against any and all AGs that include a liable debtor. The following persons are equally liable for the total amount of the overpayment and are liable debtors:

- **Adult or emancipated minors in the AG**
- Disqualified individuals who would otherwise be required to be included
- An unreported adult who would have been required to be in the AG had he been reported
- Sponsors of noncitizen AGs when the sponsor is responsible for the overpayment
- An authorized representative of an AG if he is responsible for the overpayment

For AGs containing a liable debtor that are certified at the time the claim is established, collection activity may begin by recoupment, after the notice period expires. Recoupment by benefit allotment reduction is mandatory for all claims when a liable debtor is certified for SNAP. The eligibility system automatically begins recoupment and posts these payments to the claim.

#### **11.2.6 Determining the Repayment Amount**

The minimum amount of repayment is determined as follows.

##### **11.2.6.A UPV Client and Agency Errors**

###### **11.2.6.A.1 Current Recipients**

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

###### **11.2.6.A.2 Former Recipients**

**Lump Sum Payment:** One payment is made to pay the claim in its entirety.

**Installment Payments:** When the AG is financially unable to pay the claim in one lump sum, regular monthly installment payments are accepted. The minimum amount of the monthly payment is \$50.

West Virginia Income Maintenance Manual Chapter 3 explains SNAP eligibility determination groups:

**3.2.1.A.4 Children under Age 22, Living with a Parent**

Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same SNAP AG as that parent.

**DISCUSSION**

Pursuant to policy and federal regulations, when an assistance group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or Intentional Program Violation (IPV) claim. The claim is the difference between the SNAP entitlement of the assistance group and the SNAP allotment the assistance group was entitled to receive. SNAP benefits for which the assistance group was not entitled to receive must be repaid, regardless of the type of error.

The Appellant was receiving SNAP benefits for herself and her granddaughter. The Appellant reported that her son, [REDACTED] had moved into the household on the February 2023 Interim Contact Form. The Interim Contact Form includes pre-populated information from the Appellant's case record. The Appellant added a note on the form indicating that her son was living in her home.

The Appellant submitted a SNAP redetermination online on July 30, 2023. This form incorrectly listed [REDACTED] as the uncle of [REDACTED] therefore, [REDACTED] was not included in the Appellant's SNAP assistance group. When processing the Appellant's February 2024 Interim Contact Form, the Appellant's caseworker discovered the error, corrected the household relationships and added [REDACTED] and his earned income to the Appellant's SNAP benefits.

The Respondent contended that [REDACTED] was required to be included in the Appellant's SNAP assistance group as the father of [REDACTED] and his income were not added to the Appellant's SNAP benefits until March 2024, and the Respondent is seeking a repayment of benefits that were issued to the Appellant from March 2023 through February 2024.

The Appellant argued that she never withheld her son's income from the DoHS and testified that she was unable to make corrections to the household relationships online. The Appellant contended that the Respondent should not have calculated each month of the overissuance when determining the total amount of the repayment claim, but that it should have determined what income should have been used during the certification period, and based the repayment claim only on that amount. The Appellant stated she tried adding [REDACTED] to her SNAP benefits when he first moved in but was told he was ineligible. The Appellant also contested that [REDACTED] were liable debtors of the repayment claim.

The Appellant reported that [REDACTED] was residing in her home on the February 2023 SNAP Interim Contact Form and a Low Income Energy Assistance Program (LIEAP) application that was submitted in December 2022 (Exhibit D-11). It is unclear when [REDACTED] was added to the Appellant's case as a household member, however, according to case comments, [REDACTED] and his

earned income were considered when the LIEAP application was processed in March 2023. A DoHS caseworker, who added [REDACTED] to the Appellant's case, incorrectly coded [REDACTED] as the uncle of [REDACTED]. There was no documentation to indicate that the Appellant was ever questioned regarding [REDACTED] relationship to [REDACTED] or that the Appellant reported the relationship incorrectly. The Appellant provided credible testimony regarding her inability to change the household relationships when she completed the July 2023 SNAP redetermination online. The Respondent agreed that some information cannot be altered online by a recipient. Based on the preponderance of the evidence, the cause of the Appellant's SNAP overissuance was due to agency error.

Policy and federal regulations require that when an overissuance of SNAP benefits occurs, the State agency must determine the amount of overissued SNAP benefits for each month of the repayment period. The claim is determined by subtracting the amount of SNAP the assistance group should have received from the amount that was overissued for each month. The Respondent acted in accordance with policy and federal regulations in computing each month of overissuance based on the income received during the repayment period.

Policy and federal regulations stipulate that each person residing in the household when the overissuance occurred who is over age 18 is a liable debtor and equally responsible for the repayment claim. The Respondent correctly considered [REDACTED] as liable debtors for the SNAP repayment.

Policy provides that a child under the age of 22, living in the same household as a parent, must be included in the same SNAP assistance group as the parent. [REDACTED] and his income were required to be included in the Appellant's SNAP assistance group. As such, SNAP benefits that were issued during the repayment period should have been calculated using [REDACTED] earnings, thereby causing the assistance group to receive more SNAP benefits than it was entitled. The Respondent correctly established a SNAP repayment claim from March 2023 through February 2024, the time period in which [REDACTED] and his income were not counted in determining SNAP eligibility. However, according to case comments, [REDACTED] pays child support to another household and the SNAP assistance group is entitled to receive this income deduction. The case is remanded for recalculation of the repayment claim using [REDACTED] child support payments as an income deduction.

### **CONCLUSIONS OF LAW**

- 1) When an assistance group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing a repayment claim, regardless of whether the claim is due to agency error or client error.
- 2) [REDACTED], the father of [REDACTED] was required to be included in the Appellant's SNAP assistance group.
- 3) Due to an error made by the DoHS, [REDACTED] and his income were not considered when determining the Appellant's monthly SNAP benefits.
- 4) The Respondent's decision to implement a SNAP repayment claim is affirmed.



- 5) The Appellant's assistance group is entitled to receive an income deduction for child support payments made by [REDACTED] and the repayment claim recalculated to reflect this deduction.

**DECISION**

It is the decision of the State Hearing Officer to **uphold** the decision of Investigations and Fraud Management to establish a repayment claim against the Appellant. The case is **remanded** to Investigations and Fraud Management to change the claim type to agency error and to recalculate the repayment claim using child support payments made by [REDACTED]

**ENTERED this 11<sup>th</sup> day of September 2024.**

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**Kristi Logan**  
**Certified State Hearing Officer**