



October 15, 2024

[REDACTED]

RE: [REDACTED] v. OIG/IFM  
ACTION NO.: 24-BOR-3276

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: Sarah Ellis, Investigations and Fraud Management

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

██████████,

**Appellant,**

v.

**Action Number: 24-BOR-3276**

**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 October 15, 2024, on an appeal filed on September 20, 2024.

The matter before the Hearing Officer arises from the August 21, 2024, decision by the Respondent to establish a repayment claim of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Sarah Ellis, Investigations and Fraud Management. The Appellant represented herself. Appearing as a witness for the Appellant was ██████████. The witnesses were placed under oath and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of SNAP Overissuance dated August 21, 2024 (Appellant)
- D-2 Notice of SNAP Overissuance dated August 21, 2024 (██████████)
- D-3 SNAP Claim Determination Form, SNAP Allotment Determination, and Case Benefit Summary
- D-4 Application for Benefits (DFA-2) dated February 20, 2024
- D-5 Rights and Responsibilities (DFA-RR-1) received April 30, 2024
- D-6 Notice of SNAP Termination dated May 3, 2024
- D-7 West Virginia Income Maintenance Manual §§11.2 and 1.3.1.A.3

## **Appellant's Exhibits:**

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

### **FINDINGS OF FACT**

- 1) The Appellant applied for SNAP benefits on February 20, 2024 (Exhibit D-4).
- 2) A telephone interview was conducted with the Appellant on February 29, 2024, and SNAP benefits were approved effective February 20, 2024 (Exhibit D-3).
- 3) The Respondent's Quality Control unit completed an audit of the Appellant's SNAP benefits and reported its findings to the Department of Human Services (DoHS) on April 15, 2024.
- 4) Quality Control determined that the Appellant was ineligible for SNAP benefits that were issued from February through May 2024 as the Rights and Responsibilities form had not been completed at the time of the SNAP application.
- 5) On April 15, 2024, the DoHS caseworker mailed the Rights and Responsibilities form to the Appellant for completion.
- 6) The signed Rights and Responsibilities form was returned to the DoHS office on April 30, 2024.
- 7) The Respondent sent a notice of the SNAP overissuance to the Appellant and [REDACTED] on August 21, 2024, advising that a repayment claim of \$1,632 had been established for SNAP benefits that were issued from February through May 2024 due to agency error (Exhibits D-1 and D-2).

### **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 1 explains the application process:

### **1.3.1 Common Application Forms**

The applications listed below can be used to apply for one or more programs including SNAP, WV WORKS, Medicaid, and WVCHIP.

#### **1.3.1.A Application for Benefits DFA-2**

The DFA-2 is also known as the “CAF” or Common Application Form.

#### **1.3.1.A.3 Related Forms – Rights and Responsibilities DFA-RR-1**

The DFA-RR-1 is required each time a DFA-2 or DFA-5 is completed. The client must read, or have read to him, all the statements preceding his signature before signing the form. He must also indicate his understanding of, or agreement with, each statement by checking the appropriate block beside the statement. The Worker must provide any

explanation and information the client needs to understand the statements. After completing all applicable sections, the client signs the form. Failure to sign the form results in ineligibility. When a client checks “no” to an item, it does not result in immediate ineligibility. The client has to actually fail to comply with the requirement in order to result in ineligibility.

West Virginia Income Maintenance Manual Chapter 11 explains benefit recovery procedures:

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

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

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

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

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

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

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

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

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

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

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

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

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

### **11.2.5 Collecting the Claim**

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

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

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

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

The minimum amount of repayment is determined as follows.

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

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

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

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

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

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

## **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 applied for SNAP benefits on February 20, 2024. The Appellant completed and

signed form DFA-2 on February 20, 2024, however, the Rights and Responsibilities form was not signed and completed on that date. Policy stipulates that the Rights and Responsibilities form must be signed each time the DFA-2 is completed. Failure to sign the Rights and Responsibilities form results in ineligibility.

The Appellant argued that she should not be responsible for something that was not her fault. The Appellant testified that the DoHS caseworker went over her SNAP application during the telephone interview and the omission of the Rights and Responsibilities form should have been recognized then.

The Appellant was ineligible for SNAP benefits issued from February through May 2024 due to the DoHS's failure to have the Rights and Responsibilities form signed by the Appellant at application. SNAP benefits that were issued to the Appellant for which she was not entitled to received must be recouped.

### **CONCLUSIONS OF LAW**

- 1) The Rights and Responsibilities form must be signed each time the DFA-2, Application for Benefits, is completed. Failure to sign the Rights and Responsibilities form results in ineligibility.
- 2) The Appellant applied for SNAP benefits on February 20, 2024, by completing the DFA-2.
- 3) The Rights and Responsibilities form was not signed by the Appellant until April 30, 2024.
- 4) The Appellant was ineligible for SNAP benefits that were issued from February through May 2024.
- 5) 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.
- 6) The Respondent's decision to establish an agency error repayment claim for SNAP benefits issued from February through May 2024 is affirmed.

**DECISION**

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to establish an agency error repayment claim of Supplemental Nutrition Assistance Program benefits that were issued from February 2024 through May 2024.

**ENTERED this 15<sup>th</sup> day of October 2024.**

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