



January 29, 2025

[REDACTED]

RE: [REDACTED] v. OIG/INVESTIGATIONS AND FRAUD
MANAGEMENT
ACTION NO.: 25-BOR-1007

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 assure that all persons are treated alike.

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

Sincerely,

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

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

cc: Heather Olcott, Assistant Attorney General

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

[REDACTED]

Appellant,

v.

Action Number: 25-BOR-1007

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS AND FRAUD MANAGEMENT,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the Office of Inspector General Common Chapters Manual. This fair hearing was convened on January 28, 2025.

The matter before the Hearing Officer arises from the December 17, 2024, decision by the Respondent to establish a repayment claim for Supplemental Nutrition Assistance Program (SNAP) benefits for the Appellant.

At the hearing, the Respondent appeared by Heather Olcott, Assistant Attorney General. Appearing as a witness for the Respondent was Anisha Eye, Repayment Investigator. The Appellant appeared *pro se*. 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 Notice of SNAP Overissuance dated December 17, 2024
- D-3 Case Members History
- D-4 SNAP Issuance History/Disbursement
- D-5 SNAP Allotment Determination
- D-6 Non-Financial Eligibility Determination
- D-7 SNAP Claim Determination
- D-8 SNAP Claim Calculations
- D-9 SNAP Application dated July 28, 2022

- D-10 SNAP Interim Contact Form dated November 28, 2022
- D-11 SNAP Review Form dated May 26, 2023
- D-12 SNAP Interim Contact Form dated November 27, 2023
- D-13 SNAP Review Form dated June 25, 2024
- D-14 Driver History Inquiry
- D-15 [REDACTED] Tax Inquiry
- D-16 Interstate Paternity Acknowledgement Certification Transmission (IPACT) Marriage Results
- D-17 Case Comments from May 11, 2022, through August 1, 2024, case number [REDACTED]
- D-18 Medical Assistance Redetermination dated April 26, 2024
- D-19 SNAP Application dated July 17, 2024
- D-20 Case Comments from May 21, 2021, through July 19, 2024, case number [REDACTED]
- D-21 Employee Wage Data
- D-22 West Virginia Income Maintenance §1.2.4
- D-23 West Virginia Income Maintenance §3.2.1.A
- D-24 West Virginia Income Maintenance §11.2

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 and [REDACTED] were married on August 12, 2021 (Exhibit D-16).
- 2) [REDACTED] applied for SNAP benefits on July 28, 2022 (Exhibit D-9).
- 3) [REDACTED] reported that he resided with the Appellant but they purchased and prepared meals separately (Exhibit D-17).
- 4) SNAP benefits were certified for an assistance group of one based on the information provided by [REDACTED] (Exhibits D-4 and D-5).
- 5) [REDACTED] submitted SNAP interim contact forms to the Department of Human Services (DoHS) on November 28, 2022, and November 27, 2023 and submitted SNAP review forms on May 26, 2023 and June 25, 2024 (Exhibits D-10, D-11, D-12 and D-13).
- 6) [REDACTED] did not list the Appellant as a household member on the SNAP interim contact forms or SNAP review forms but reported that he purchased and prepared separately from the Appellant during eligibility interviews (Exhibit D-17).

- 7) The Appellant submitted a Medicaid review form to DoHS on April 26, 2023. She did not report ██████████ in her household or their marital status (Exhibits D-17 and D-18).
- 8) The Appellant contacted the ██████████ DoHS on June 18, 2024, on behalf of ██████████ identifying herself as his wife (Exhibit D-17).
- 9) ██████████ completed a telephone interview in connection with a SNAP reapplication on July 3, 2024. ██████████ reported residing with the Appellant, his wife, and requested that she be excluded from his SNAP benefits (Exhibit D-17).
- 10) Verification of the Appellant's earned income was requested on July 3, 2024.
- 11) The requested verification was not received, and ██████████ SNAP reapplication was denied (Exhibit D-17).
- 12) The Respondent issued a notice to the Appellant on December 17, 2024, advising that a repayment claim had been established to recoup SNAP benefits that were issued in error from March 2023 through June 2024 of \$3,614 (Exhibit D-2).

APPLICABLE POLICY

Code of Federal Regulations Title 7 §273.1(b) explains the SNAP household concept:

Special household requirements —

(1) ***Required household combinations.*** The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

(i) **Spouses;**

(ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); and

(iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult.

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

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

11.2.3.A.1 Agency Errors

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

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

11.2.3.A.2 Client Errors

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

11.2.5 Collecting the Claim

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

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

For AGs containing a liable debtor that are certified at the time the claim is established, collection activity may begin by recoupment, after the notice period expires. Recoupment

by benefit allotment reduction is mandatory for all claims when a liable debtor is certified for SNAP. The eligibility system automatically begins recoupment and posts these payments to the claim.

11.2.6 Determining the Repayment Amount

The minimum amount of repayment is determined as follows.

11.2.6.A UPV Client and Agency Errors

11.2.6.A.1 Current Recipients

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

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 explains eligibility determination groups:

3.2.1.A Who Must Be Included

The SNAP AG must include all eligible individuals who both live together and purchase food and prepare meals together, with the exception of residents of shelters for battered persons. An individual cannot be a member of more than one SNAP AG in any month. When an AG member is absent or is expected to be absent from the home for a full calendar month, he is no longer eligible to be included in the AG and must be removed after advance notice.

3.2.1.A.2 Spouses

Spouses are individuals who are legally married to each other under provisions of state law or those moving to West Virginia from states that recognize their relationship as a legal marriage.

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.

Policy and federal regulations require that married individuals who reside together must be included in the same SNAP assistance group. The Appellant and [REDACTED] were married in August 2021. [REDACTED] failed to report that the Appellant, who had been residing with him since the July 2022 SNAP application, was his wife. The Respondent established a repayment claim

against the Appellant as a liable debtor as she and her income were required to be considered when determining [REDACTED] SNAP eligibility.

The Appellant argued that she should not be responsible for [REDACTED] error. The Appellant contended that she was unaware that [REDACTED] had not reported their marriage and claimed that they are no longer together. While the Appellant may not have had knowledge that [REDACTED] had not reported their marriage, the Appellant bears some responsibility as she did not report the marriage or [REDACTED] as a household member on the April 2023 Medicaid review.

Policy and federal regulations stipulate that each person residing in the household when the SNAP overissuance occurred, who is over age 18, is a liable debtor and equally responsible for the repayment claim. The Appellant was an adult who was residing in [REDACTED] household when the SNAP overissuance occurred and is therefore a liable debtor for the SNAP repayment.

The Appellant and [REDACTED] were required to be included in the same SNAP assistance group as legally married spouses who were residing in the same household. The Appellant's earned income was required to be considered when determining [REDACTED] SNAP allotment. Because the marriage was not reported, [REDACTED] was issued SNAP benefits for which he was not eligible to receive. Whereas SNAP benefits that were issued in error much be recouped, the Respondent acted in accordance with policy and federal regulation in establishing a repayment claim against the Appellant.

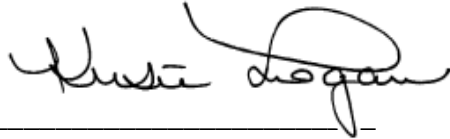
CONCLUSIONS OF LAW

- 1) When an assistance group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing a repayment claim, regardless of whether the claim is due to agency error or client error.
- 2) The Appellant and her income were required to be included in [REDACTED] SNAP assistance group.
- 3) The Appellant and [REDACTED] failed to report their marriage to the Department of Human Services.
- 4) The Appellant's income was not used in determining [REDACTED] SNAP eligibility and he was therefore issued SNAP benefits for which he was not entitled to receive.
- 5) All adults residing in the household when the SNAP overissuance occurred are equally liable for the repayment claim.
- 6) The Appellant is a liable debtor for the SNAP repayment claim.
- 7) The Respondent's decision to implement a repayment claim of SNAP benefits for the Appellant is affirmed.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to establish a repayment claim against the Appellant

ENTERED this 29th day of January 2025.

A handwritten signature in black ink, appearing to read "Kristi Logan", written over a horizontal line.

Kristi Logan
Certified State Hearing Officer