



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
203 E. Third Avenue  
Williamson, WV 25661

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D., Ph.D.  
Cabinet Secretary

December 22, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held November 17, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to establish a SNAP and a WV WORKS repayment claim against you.

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

Eligibility for the SNAP and the WV WORKS programs are based on current policy and regulations. These regulations provide that monthly cash contributions from an individual not for shared household expenses are counted as unearned income for the recipient in both programs. (West Virginia Income Maintenance Manual § 10.3.K)

The information submitted at this hearing revealed that from November 2010 to February 2011, you were overpaid SNAP and WV WORKS benefits due to income you received from a family member. As such, you are required by policy to repay the SNAP and WV WORKS benefits you received during this time.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to establish a repayment claim against your SNAP and WV WORKS benefits.

Sincerely,

Stephen M. Baisden  
State Hearings Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Brian Shreve, Repayment Investigator

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
BOARD OF REVIEW**

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**Respondent,**

v.

**ACTION NO: 11-BOR-2028 (SNAP)  
11-BOR-2029 (WV WORKS)**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Movant.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on December 22, 2011 for -----. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened via videoconference, with Department representatives and Respondent appearing at the ██████████ County Office of the WV Department of Health and Human Resources (DHHR) in Foster, WV, and the Hearing Officer appearing at the Mingo County office of the WV DHHR in Williamson, WV, on November 17, 2011, on a timely appeal filed September 30, 2011.

**II. PROGRAM PURPOSE:**

The Program entitled the Supplemental Nutrition Assistance Program, or SNAP, is administered by the West Virginia Department of Health & Human Resources (DHHR.)

The purpose of the Supplemental Nutrition Assistance Program is to provide an effective means of utilizing the nation's abundance of food "to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households." This is accomplished through the issuance of EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

The purpose of WV WORKS is to help economically dependent, at-risk families become self-supporting. It is a work-oriented, performance-based, time-limited program that emphasizes employment and personal responsibility. The goals of WV WORKS are to achieve more efficient and effective use of public assistance funds, reduce dependency on public programs by

promoting self-sufficiency, and structure assistance to emphasize employment and personal responsibility.

**III. PARTICIPANTS:**

-----, Respondent

Brian Shreve, Repayment Investigator, Department's representative

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and member of the Board of Review.

Both participants were placed under oath at the beginning of the hearing.

**IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether or not the Department's proposal to establish a repayment claim against Respondent's SNAP and WV WORKS benefits is correct.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual §9.1.A 10.3.K and §20.2

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Movant's Exhibits:**

- M-1 QC-12, Report on WV WORKS Error *and* Report on SNAP Error, dated June 22, 2011
- M-2 QC-342, Information request from Quality Control (QC) Unit of WV DHHR to Respondent's father, dated February 25, 2011, signed and returned by him on March 7, 2011
- M-3 QC-342, Information request from QC to Kemba Federal Credit Union, Charleston, WV, dated February 25, 2011, signed and returned by a bank officer on February 25, 2011
- M-4 QC-2, Request for Additional Information from QC to Respondent's father dated March 31, 2011, signed and returned by him on April 11, 2011
- M-5 QC-2, Request for Additional Information from QC to Respondent dated June 2, 2011, signed and returned by her on the same date
- M-6 Copies of cancelled checks dated October 14 through February 5, from Kemba Federal Credit Union, Charleston, WV
- M-7 WV Income Maintenance Manual Chapter 11, section 2.D
- M-8 ES-C/U-5 Cash Assistance Claim Determination form dated September 20, 2011
- M-9 WV Income Maintenance Manual Chapter 20, section 3
- M-10 Print-out of case comments from Respondent's case record, dated October 20, 2010

- M-11 ES-FS-5 Food Stamp (SNAP) Claim Determination form dated September 20, 2011
- M-12 WV Income Maintenance Manual Chapter 20, section 2
- M-13 Notification of WV WORKS Overissuance letter *and* Notification of SNAP Overissuance Letter, dated September 21, 2011

**VII. FINDINGS OF FACT:**

- 1) In June, 2011, the Investigations and Fraud Management Unit of the WV DHHR received a referral from the Quality Control (QC) Unit of the DHHR indicating that there was an error in Respondent's SNAP and WV WORKS benefits. The Department's Representative investigated this matter, and concluded that Respondent had received unearned income that was not reported to the WV DHHR. A repayment claim was established against Respondent for the months of November, 2010 to February, 2011 for the WV WORKS benefits and December, 2010 to February 2011 for the SNAP benefits.
- 2) Respondent was informed by a letter dated September 21, 2011, that a SNAP and a WV WORKS repayment claim had been established against her. She requested a fair hearing to protest the establishment of these repayment claims on September 30, 2011.
- 3) Department's representative argued that the Department has correctly established a repayment obligation. He submitted into evidence a document sent from the WV DHHR to Respondent's father, who signed and returned it to the WV DHHR on March 7, 2011. (Exhibit M-2) This document indicates Respondent's father gave her \$500 per month, and the money was to be used for rent. He submitted into evidence a document sent from the WV DHHR to Respondent, (Exhibit M-5) which states as follows:

“Dear [Respondent]:

As required by Federal law, it is necessary for the Department of Health and Human Resources Quality Control Division to verify the information below.

This letter is to confirm information you provided to me in a telephone conversation on 06/01/11, when you stated that your name is on your father's bank account. You stated that you are not allowed to access his account for your own use. You stated that each month he gives you cash & a check, which you fill out & sign, to pay your rent in the amount of \$500. You stated you have not received any other funds from this account.”

The document indicates that Respondent agreed with the information as stated above, and she signed and dated it on June 2, 2011.

- 4) Department's representative stated that for the purposes of the WV WORKS repayment, because the \$500 per month was given to Respondent and not directly to her landlord, this should have been reported as unearned income, thus making Respondent ineligible for the

WV WORKS benefits. He stated that he established a repayment claim in the amount of \$1474 against Respondent, which was the full amount of WV WORKS benefits she received from November 2010 to February 2011. (Exhibit M-8.)

- 5) Department's representative stated that the repayment claim for the SNAP benefits was somewhat different. He stated that Respondent did not receive SNAP in November 2010, so the repayment claim was for the months of December 2010 through February 2011. He stated that the repayment further is decreased because he located in Respondent's case record cancelled checks paid to an individual Respondent identified to the Quality Control reviewer and in the hearing as her landlord. The cancelled checks were signed by Respondent and were in the amount of \$250. (Exhibit M-6.) He added that Respondent had reported her rent as \$500 per month (Exhibit M-10), but he could not locate in the record any receipts or documentation to indicate she paid more than \$250; therefore, he calculated his SNAP repayment claim in the amount of \$500 of unearned income per month, with \$250 per month in rent calculated as part of her shelter and utility deduction. (Exhibit M-11.)
- 6) For the SNAP repayment, Respondent acknowledged that her father gave her \$500 per month to pay her rent. She testified that she separated from her child's father and began receiving WV WORKS in November, 2010. She further testified that her father began giving her money to pay her rent in November 2010. She stated that she showed the Quality Control investigator receipts indicating she paid \$500 per month for rent. She added that the investigator looked at the receipts but did not copy them.
- 7) For the WV WORKS repayment, Respondent testified that she had been living with the father of her child, but they were having problems and separated. She stated that she applied for public assistance benefits in November 2010 and was referred to the WV Bureau of Child Support as that time. She stated that she and the father reconciled in February of 2011, and then attended a child support hearing. She said that they reported to the court that they had reconciled, so the family court judge did not impose a monthly child support order on the father. However, she added, the judge ordered the father to repay to the WV DHHR the amount of the WV WORKS benefits Respondent had received for November 2010 through February 2011. Respondent argued that since her child's father had to repay the amount of WV WORKS benefits she had received, if she had to repay this amount also, her household would have to repay this amount twice. Therefore, she argued, she should not have to repay the WV WORKS amount.
- 8) West Virginia Income Maintenance Manual, Chapter 10.3.K states that cash contributions given to a SNAP or a WV WORKS recipient from an individual not included in the assistance group are counted as unearned income, unless those contributions are for shared household expenses.
- 9) West Virginia Income Maintenance Manual, Chapter 20.2 states in pertinent part:

When an AG [assistance group] has been issued more [SNAP] 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 entitlement the assistance group received and the entitlement the assistance group should have received.

- 10) West Virginia Income Maintenance Manual, Chapter 20.3 states in pertinent part:

Repayment is pursued for cash assistance overpayments made under the former AFDC/U Program, WV WORKS, CSI, the former TANF Program, WV WORKS School Clothing Allowance, and the West Virginia School Clothing Allowance . . . When an AG [assistance group] has received more cash assistance than it was entitled to receive, corrective action is taken by establishing a claim for the overpayment. The claim is the difference between the amount of benefits received and the amount of benefits to which the AG was entitled.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy dictates that cash contributions are counted as unearned income for the SNAP and WV WORKS programs.
- 2) Department's representative submitted evidence to indicate Respondent received \$500 per month from her father. Respondent did not contest this, but testified that the money was intended to pay her rent.
- 3) Respondent did not offer any evidence to indicate her rent was more than \$250 per month. Therefore the Department was correct in determining that Respondent received \$500 per month in unearned income which was not counted against the SNAP benefits.
- 4) Because Respondent received \$500 per month to pay her rent, and this money did not go directly to the landlord, the Department was correct in determining that this \$500 was unearned income for the WV WORKS program.
- 5) It is beyond the scope of this hearing to address the issue of reimbursements from the father of Respondent's child to the WV DHHR, ordered by a Family Court judge.
- 6) The Department acted correctly to establish a repayment claims against Respondent in the SNAP and WV WORKS programs.

#### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to establish repayment claims against Respondent in the SNAP and WV WORKS programs.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Respondent's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 22<sup>nd</sup> day of December 2011.**

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**Stephen M. Baisden  
State Hearing Officer**