



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Earl Ray Tomblin
Governor

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

August 19, 2011

----- & -----

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held August 18, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to establish a Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp, repayment claim against your household.

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 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 Food Stamp Program is based on current policy and regulations. Some of these regulations state that when an assistance group has been issued more Food Stamp (SNAP) benefits than it was entitled to receive, corrective action is taken by establishing a claim. All claims, whether established as a result of an error on the part of the Department or the household, are subject to repayment. (West Virginia Income Maintenance Manual, Chapter 20.2 and 7 CFR § 273.18 - Code of Federal Regulations).

Information submitted at your hearing reveals that a date entry/coding error by the Department resulting in an overissuance of SNAP benefits in the amount of \$4,878.00. While you contend that you should not be responsible to repay overissued SNAP benefits when the Department is at fault, all SNAP overpayments, whether caused by the agency or the household, are subject to repayment.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to establish and seek collection of a SNAP (Food Stamp) repayment claim in the amount of \$4,878 for the period of December 1, 2009 through November 30, 2010.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

Pc: Erika H. Young, Chairman, Board of Review
Melissa Barr, RI, DHHR

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

----- (Claimant) and ----- (Co-Claimant),

Claimants,

v.

**Action Number: 11-BOR-1392 (-----)
11-BOR-1393 (-----)**

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing for ----- and -----.
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 on August 18, 2011 on a timely appeal filed June 24, 2011.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp
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.

III. PARTICIPANTS:

-----, Claimant
Melissa Barr, Repayment Investigator (RI), WVDHHR

Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the
State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department is correct in its proposal to establish and seek repayment of a SNAP (Food Stamp) claim.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 20.2 and Chapter 10, Appendix A.
7 CFR § 273.18 - Code of Federal Regulations.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp [SNAP] Claim Determination for period December 2009 through November 2010, accompanied by monthly calculations.
- D-2 Notification of Supplemental Nutrition Assistance Program (SNAP) Overissuance – dated 6/22/11
- D-3 Combined Application and Review Form (CAF) and Rights and Responsibilities (DFA-RR-1) signed on 12/1/09 – CAF and Rights and Responsibilities signed on 10/28/10 and online application signed on 5/3/10.
- D-4 7 CFR § 273.18 - Code of Federal Regulations.
- D-5 West Virginia Income Maintenance Manual, Chapter 20.2

Claimant's Exhibits:

- C-1 Claimants' written statement (undated)

VII. FINDINGS OF FACT:

- 1) On or about June 22, 2011, the Claimants were notified of a Supplemental Nutrition Assistance Program (SNAP) overissuance. This notice states, in pertinent part:

We have determined that you were issued more SNAP benefits than you were eligible to receive during the period 12/1/09 to 11/30/10 because of UNEARNED INCOME.

This notice goes on to indicate that an AGENCY ERROR claim for \$4,878.00 has been established against the Claimants' household.

- 2) Melissa Barr, a Repayment Investigator (RI) for the Department of Health and Human Resources, hereinafter Department, presented evidence to indicate the overissuance of SNAP benefits during the period December 2009 through November 2009 is the result of an agency error. Ms. Barr purported that ----- (Co-Claimant), was ineligible for SNAP benefits due to his student status at the time but is considered part of the Assistance Group (AG). The Claimants receive an adoption subsidy for their two children, and because this income was assigned to the

Co-Claimant in the Department's computer system, the income was erroneously excluded and did not count against the SNAP benefit amount. As a result, the Claimant received an overissuance of SNAP benefits in the amount of \$4,878.00 during the period December 1, 2009 through November 30, 2010. Exhibit D-1 was submitted to show how the repayment amount (overissuance) was calculated.

- 3) Ms. Barr noted that the Claimants did not do anything wrong, but policy requires all overpayments of SNAP benefits be pursued for recoupment. Furthermore, Ms. Barr submitted Exhibit D-3 that includes three (3) applications completed by the Claimants (12/1/09, 10/28/10 and a phone review completed on 5/3/10) wherein the Claimant's acknowledged - "I understand, that I may be required to repay any benefits paid to me or on my behalf for which I was not eligible because of unintentional errors made by me or by DHHR."
- 4) The Claimant represented herself and her spouse, and provided Exhibit C-1 as part of her argument. The Claimant contends that they were told years ago that the adoption subsidy would not count against them as it was to be used to care for their special needs children. The Claimants received SNAP benefits for approximately one year, had seen several workers at the Department, and were eventually told that they were no longer eligible for SNAP benefits due to a change in how adoption assistance was counted toward SNAP benefits. The Claimants were not informed they would have to repay the SNAP benefits at that time. The Claimant contends that she and the Co-Claimant have been honest and feel it is unfair that they are required to repay an overissuance of SNAP benefits caused by an agency error.
- 5) There is no evidence to indicate there has been a recent change in how adoption subsidy is calculated for SNAP benefits. A review of the West Virginia Income Maintenance Manual, Chapter 10.3.B., provides that adoption assistance income counts toward SNAP benefit eligibility as unearned income.
- 6) West Virginia Income Maintenance Manual, Chapter 10.4, C:
This section contains policy relating income disregards and deductions and computation of and eligibility for Food Stamp benefits. It also states: To determine the coupon allotment, find the countable income and number (of persons) in the assistance group.
- 7) West Virginia Income Maintenance Manual, Chapter 20.2:
When an AG (assistance group) has been issued more Food Stamps 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.
- 8) West Virginia Income Maintenance Manual, Chapter 20.2,C:
There are 2 types of UPV's, client errors and agency errors.
A UPV claim is established when:
 - An error by the Department resulted in the overissuance.
 - An unintentional error made by the client resulted in the overissuance

VIII. CONCLUSIONS OF LAW:

- 1) Evidence reveals that a data entry error was made by the Department when the Claimants' SNAP benefits were calculated – The Co-Claimant was correctly excluded from the AG due to being an ineligible student, however, the adoption subsidy income should have been counted in determining SNAP eligibility and benefit amount for the Claimant and her two daughters. This information, however, serves only to show that the overissuance is the result of an agency error. The fact remains that the assistance group was issued \$4,878.00 in SNAP benefits to which it was not entitled.
- 2) Pursuant to policy found in Chapter 20 of the West Virginia Income Maintenance Manual, the Department has correctly proposed repayment of the overissued SNAP benefits as policy makes no distinction between claims resulting from errors made by the Claimant or the agency - The claim is the difference between the entitlement the assistance group received and the entitlement the assistance group should have received.
- 3) The Department's proposal to establish and seek collection of the repayment claim based on an agency error is affirmed.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to establish and seek collection of a SNAP repayment claim in the amount of \$4,878.00 for the period of December 1, 2009 through November 30, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of August, 2011.

**Thomas E. Arnett
State Hearing Officer**