



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

Earl Ray Tomblin  
Governor

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

September 15, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held September 13, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to pursue a repayment of Supplemental Nutrition Assistance Program (SNAP) benefits 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 SNAP is based on current policy and regulations. These regulations provide that when an assistance group has been issued more SNAP benefits that it is entitled to receive, corrective action must be taken to recoup those benefits (WV Income Maintenance Manual § 20).

The information submitted at your hearing revealed that you were not eligible to receive SNAP benefits that were issued from January 2009 through June 2009 and August 2010 through December 2010 and are therefore required to repay those benefits.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to pursue a repayment of SNAP benefits against you.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

cc: Chairman, Board of Review  
Vickie Adkins, Repayment Investigator

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

**IN RE:** -----,

**Respondent,**

**v.**

**ACTION NO.: 11-BOR-1568**

**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 September 13, 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 on a -----ely appeal, filed July 11, 2011.

**II. PROGRAM PURPOSE:**

The program entitled Supplemental Nutrition Assistance Program is administered by the West Virginia Department of Health and Human Resources.

The purpose of the Supplemental Nutrition Assistance Program (SNAP) 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 benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

**III. PARTICIPANTS:**

-----, Respondent  
Vickie Adkins, Repayment Investigator

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department's proposal to pursue a repayment of SNAP benefits for Respondent is correct.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 9.1 and § 20

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

**Department's Exhibits:**

- D-1 Benefit Recovery Referral Screens (BVRF), Case Members History Screen (AQCM), SNAP Issuance History Screen (IQFS), SNAP Allotment Determination Screen (EFAD) and Case Comments (CMCC) from RAPIDS Computer System; SNAP Claim Determination Form
- D-2 Combined Application and Review Forms dated February 9, 2009 and August 17, 2010
- D-3 Rights and Responsibilities Form dated February 9, 2009 and August 17, 2010
- D-4 Case Comments (CMCC) from RAPIDS Computer System
- D-5 WV Income Maintenance Manual § 20.2 and Case Comments (CMCC) from RAPIDS Computer System
- D-6 Statement from Respondent dated October 26, 2010 and WV Income Maintenance Manual § 9.1 A(1)
- D-7 WV Income Maintenance Manual § 9.1 A(1) and Hearing Request dated July 11, 2011
- D-8 WV Income Maintenance Manual § 20.2
- D-9 Hearing Request dated July 11, 2011

**VII. FINDINGS OF FACT:**

- 1) Respondent applied for SNAP benefits on February 9, 2009. She reported that she and her son ----- were living with -----, father of -----, and ----- parents and siblings. Respondent stated she purchased and prepared separately from ----- and his family. SNAP benefits were approved for Respondent and her son, backdated to January 2009. Respondent's SNAP case was closed in June 2009 when she moved out of state (D-2 and D-4).
- 2) Respondent reapplied for SNAP benefits on August 17, 2010. She reported only herself and her son as living in the household. SNAP benefits were approved based on the information provided (D-2 and D-4).
- 3) A Front End Fraud Unit (FEFU) investigation was conducted to verify Respondent's household composition. FEFU verified Respondent and her son were living with -----

and his family. A statement was obtained from Respondent on October 26, 2010 which reads in pertinent parts (D-6):

I live here [with] my son ----- and my son's father ----- and ----- parents - ----- and ----- . I just started living here this year after I got back from [REDACTED] I got back 5 months ago.

Respondent's SNAP case closed in December 2010 when she failed to verify ----- income (D-4).

- 4) The Department contends that Respondent was not eligible to receive SNAP benefits from January 2009 through June 2009 and from August 2010 through December 2010. According to policy, Respondent and her son were required to be in the same SNAP assistance group (AG) as -----, as -----was -----'s legal father. Additionally -----was under the age of 22 during the ----- Respondent resided with him and his family in 2009 and 2010, and -----could not be a separate AG from his parents. Respondent, -----, ----- and his parents and siblings were required by policy to all be included in the same SNAP AG. The combined income of the AG was excessive for Respondent to receive SNAP benefits (D-6).

The Department requested a repayment of SNAP benefits issued to Respondent in 2009 and 2010 in the amount of \$2748 for which she was not entitled to receive (D-1).

- 5) Respondent testified she reported residing with ----- and his family when she applied for SNAP in 2009. Respondent stated they were not living together as a couple during that ----- . Respondent stated she had had an argument with her parents and had no other place to live.

Respondent stated when she moved back to West Virginia from [REDACTED] in 2010, she and her son moved in with -----and his family. Respondent stated -----had been in an accident at work, and ----- parents let her live there to help with his care. Respondent stated she needed SNAP to provide for her and ----- and that she and -----were not a couple during that ----- . Respondent stated she did not have anywhere else to live. Respondent did not contest the Department's findings that she lived with -----and his family during the ----- she received SNAP in 2009 and 2010.

- 6) WV Income Maintenance Manual § 9.1 A(2) states:

The following individuals who live together must be in the same AG, even if they do not purchase and prepare meals together.

- 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 AG as that parent.

- 7) WV Income Maintenance Manual § 20 and § 20 C(1) states:

When an AG 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 AG and the SNAP allotment the AG was entitled to receive. The procedures and policy by which SNAP claims are referred, established, collected and maintained follow.

UPV Claims - There are two 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) Policy dictates that if an individual under the age of 22 is living in the same household as their parents, then that individual must be in the same assistance group with their parents.
- 2) Respondent's minor child is required by policy to be included in the same assistance group as his parents. Respondent and -----, the father of her child, resided in the same household during the ----- Respondent received SNAP benefits in 2009 and 2010. All three (3) were required by policy to be in the same assistance group.
- 3) Likewise -----, who was under the age 22 during that ----- period, was required to be included in the same assistance group as his parents, with whom he and Respondent were residing with. Policy pulls the entire household together in the same assistance group. Respondent was not eligible to receive SNAP benefits for only herself and her son while living in -----'s household.
- 4) Policy holds that when SNAP benefits that are issued in error, whether by client error or agency error, those benefits must be repaid.
- 5) Respondent is responsible to repay the SNAP benefits issued from January 2009 through June 2009 and from August 2010 through December 2010 for which she was not entitled to receive.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to pursue a repayment of SNAP benefits issued to Respondent for which she was not eligible to receive.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 15<sup>th</sup> day of September 2011.**

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