



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

Earl Ray Tomblin
Governor

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

May 20, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 17, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to establish a Supplemental Nutrition Assistance Program (SNAP) repayment claim against your household.

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 Supplemental Nutrition Assistance Program (SNAP) is based on current policy and regulations. Some of these regulations state that when an assistance group has been issued more 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 the Department correctly determined you received SNAP benefits from May 13, 2010 to September 30, 2010 to which you were not entitled due to an agency error, resulting in an over-issuance in the amount of \$920.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish and seek collection of a SNAP repayment claim in the amount of \$920 for the period of May 13, 2010 to September 30, 2010.

Sincerely,

Stephen M. Baisden
State Hearing 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**

Action Number: 11-BOR-825

-----,
Respondent,

v.

**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 May 20, 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 (DHHR.) This fair hearing was convened on May 17, 2011, on a timely appeal filed March 22, 2011.

II. PROGRAM PURPOSE:

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

Brian Shreve, Repayments Investigator, Department's Representative

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

This hearing was conducted at the WV Department of Health and Human Resources, [REDACTED] County Office in [REDACTED] WV.

The Hearings Officer placed both participants under oath at the beginning of the hearing.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Agency is correct in its proposal to establish and seek repayment of a SNAP repayment claim.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 10.4, Chapter 6.3 and Chapter 20.2.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- M-1 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made on May 13, 2010, in Respondent's case.
- M-2 Copy of Income Maintenance Manual Chapter 9.1.A.1.b(2) showing which household members must be included in the same SNAP assistance group.
- M-3 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made on August 27, 2010, in Respondent's case.
- M-4 CMCC Screen print from RAPIDS System showing additional Income Maintenance worker case comments made on May 13, 2010, in Respondent's case.
- M-5 Copy of Income Maintenance Manual Chapter 20.2 showing SNAP overpayment claims and repayment procedures.
- M-6 ES-FS-5, Food Stamp Claim Determination – May 2010 through September 2010.
- M-7 Copy of letter from Repayments Investigator to Respondent dated February 17, 2011.
- M-8 Copy of Combined Application Form (CAF) and Rights and Responsibilities form, dated May 13, 2010.

Respondent's Exhibits

- R-1 Written statement from Respondent's ex-wife concerning household shelter and utility expenses, undated.
- R-2 Copy of business card from [REDACTED]

VII. FINDINGS OF FACT:

- 1) Department's Representative submitted verification in the form of a print-out from Respondent's SNAP case record to indicate that an application was made in Respondent's behalf on May 13, 2010, for Medicaid and SNAP benefits. (Exhibit M-1.) The worker who took the application recorded the following: (Exhibit M-5.)

CLIENT IS APPLYING FOR MEDICAL AND FS [SNAP] CLIENT LIVES WITH HIS EX WIFE AND THERE [sic] COMMON CHILD . . . SINCE I AM NOT ABLE TO DETERMING [sic] WETHER [sic] OR NOT THE CHILD NEEDS MEDICAL I AM UNABLE TO INCLUDE CHILD FOR CHILD RELATED MEDICAL . . .

Department's Representative testified that this is the source of the error in this case. He stated that the child should have been included in the application since the application was for SNAP as well as Medicaid. If the worker had included the child, the mother would have been included as well, and her income would have been correctly counted toward the SNAP eligibility.

- 2) Department's Representative submitted comments from Respondent's case record to indicate that on August 27, 2010, an eligibility worker determined that the household was incorrect and added Respondent's wife and child to his SNAP assistance group. (Exhibit M-3 and M-4.) When Respondent's wife was properly added to the SNAP assistance group, her income made the group ineligible for SNAP benefits.
- 3) Department's Representative submitted an ES-FS-5, a SNAP overpayment claim determination form wherein he calculated that the claim overpayment in Respondent's SNAP case was in the amount of \$920 for overpaid SNAP benefits from May 13, 2010 to September 30, 2010. (Exhibit M-6.)
- 4) West Virginia Income Maintenance Manual, Chapter 9.1.A.1(b) (Exhibit M-2) states in pertinent part:

Individuals or groups of individuals living with others, but who customarily purchase food and prepare meals separately are an [Assistance group or] AG. Customarily purchasing and preparing food separately means that, during the certification period, the client actually purchases and prepares his food separately from the others in the household over 50% of the time, except for an occasional shared meal. This occasional sharing for food does not interfere with his separate AG status. EXCEPTION: The following individuals who live together must be in the same AG, even if they do not purchase and prepare meals together:

...

- 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.

- 5) West Virginia Income Maintenance Manual, Chapter 20.2 (Exhibit M-5) states in pertinent part:

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.

- 6) Respondent testified that he was hospitalized because of a heart attack in May, 2010. He stated that while he was hospitalized, a worker from Chamberlin-Edmunds, a firm contracted to help hospitalized individuals to apply for medical benefits, applied for Medicaid in his behalf and with his knowledge to help him with the cost of his hospitalization. He testified that the worker did not inform him that she had applied for SNAP in his behalf as well. He submitted as evidence a statement written by his ex-wife, with whom he testified he was living, concerning the household shelter and utility expenses. (Exhibit R-1.) He also submitted the business card

of the Chamberlin-Edmunds' worker. (Exhibit R-2.) Department's Representative submitted the Combined Application Form (CAF) and Rights and Responsibilities form that the DHHR requires for a benefit application. (Exhibit M-8.) The signature page on both of these documents contains the signature of the Chamberlin-Edmunds employee, who has written, "for [Respondent.]" Department's Representative could not locate in the case record any authorization documentation to indicate Respondent had given permission for Chamberlin-Edmunds to apply for these benefits.

- 7) Respondent testified that some time after he came home from the hospital, he received a SNAP Electronic Benefits Transfer (EBT) card by mail. He added that this was the first time he knew that he had applied for SNAP benefits. He stated that he called his eligibility worker, who informed him that he had been approved for SNAP. He stated that he activated his card and spent the SNAP benefits.
- 8) Respondent testified that he did not sign an application for SNAP benefits, and was unaware that an application for SNAP had been made until he received the EBT card in the mail. He stated that this was an error on the part of DHHR employees and it is unfair that he be required to repay these benefits.

VIII. CONCLUSION OF LAW:

- 1) A worker at an agency contracted to arrange medical benefits for hospitalized individuals took an application for Medicaid on Respondent's behalf in May, 2010. She evaluated him for all programs of assistance, including SNAP. The contract worker gave this information to a DHHR eligibility worker on May 13, 2010.
- 2) The DHHR worker who evaluated Respondent's application erroneously excluded Respondent's son and ex-wife, with whom he lived, from his SNAP assistance group. Because of this, the income from Respondent's ex-wife was not counted in his SNAP eligibility calculations, and Respondent was approved for SNAP benefits to which he was not entitled.
- 3) Respondent testified that he received the SNAP benefits in the form of an Electronic Benefits Transfer card, and used the SNAP benefits to purchase food.
- 4) There is no question that Respondent did not sign an application for the SNAP benefits. Also, there is no question that the SNAP benefits were approved in error by the eligibility worker who accepted Respondent's application. Further, there is no question that Respondent used and enjoyed the proceeds of his SNAP benefits.
- 5) The Department's proposal to establish and seek collection of a repayment claim is therefore affirmed.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish and seek collection of a SNAP repayment claim in the amount of \$920 for the period May 13, 2010 through September 30, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Respondent's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 20th Day of May, 2011.

**Stephen M. Baisden
State Hearing Officer**