



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

July 21, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 6, 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 June 1, 2010 to March 31, 2011 to which you were not entitled due to an agency error, resulting in an over-issuance in the amount of \$5403.

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 \$5403 for the period of June 1, 2010 to March 31, 2011.

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**

IN RE: -----,

Action Number: 11-BOR-1060

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 July 21, 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 July 6, 2011, on a timely appeal filed May 5, 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 due to an agency error.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 20.2.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- M-1 CMCC Screen print from RAPIDS System showing Repayment Investigator case comments made on December 22, 2010, and May 5, 2011, in Respondent's case.
- M-2 Screen print from the WV Department of Motor Vehicles indicating Respondent's ex-husband's mailing address as listed on his WV Driver's License.
- M-3 ACCH screen print from RAPIDS System showing residence street address for Respondent.
- M-4 ACMA screen print from RAPIDS System showing mailing address for Respondent.
- M-5 Screen print from WV Bureau of Employment Programs showing earned quarterly income received by Respondent's ex-husband.
- M-6 Copy of Income Maintenance Manual Chapter 9.1.A.1.b(2) showing who must be included in a SNAP assistance group (AG).
- M-7 Screen print from WV Bureau of Vital Statistics indicating Respondent and ex-husband were legally married on September 18, 2001.
- M-8 Copy of Income Maintenance Manual Chapter 20.2 showing SNAP overpayment claims and repayment procedures.
- M-9 ES-FS-5, Food Stamp [SNAP] Claim Determination – June 1, 2010 through March 31, 2011.
- M-10 Copy of Notification of Supplemental Nutrition Assistance Program (SNAP) Overissuance letter, dated March 8, 2011.

VII. FINDINGS OF FACT:

- 1) Department's representative submitted into evidence case comments that he made on December 22, 2010 and May 5, 2011, indicating that he received a report that Respondent's ex-

husband was living in her home and was working. (Exhibit M-1.) He testified that he established repayment claims totaling \$5403 because Respondent's ex-husband and his earned income were not included as part of her SNAP assistance group (AG). (Exhibit M-9.)

- 2) Department's representative submitted into evidence a screen print from the WV Department of Motor Vehicles showing that when Respondent's ex-husband renewed his driver's license on April 13, 2010, he listed his physical address as -----, and his mailing address as -----. (Exhibit M-2.) DHHR records show her physical address as ----- (Exhibit M-3) and her mailing address as -----. (Exhibit M-4.) These two exhibits, screen prints from the WV DHHR's benefits-issuance computer system, contain a field labeled, "LAST UPDATED." For Exhibit M-3, the LAST UPDATED field lists February 5, 2010, as the last time the information from this screen was changed. For Exhibit M-4, the LAST UPDATED field lists February 15, 2007, as the last time the information from this screen was changed.
- 3) Department's representative submitted into evidence a print-out from the WV Bureau of Employment Programs to indicate that during the period of the repayment claims, Respondent's ex-husband worked and received earned income. (Exhibit M-5.)
- 4) West Virginia Income Maintenance Manual, Chapter 9.1.A.1.b(2) (Exhibit M-6) states in pertinent part:

Individuals or groups of individuals living with others, but who customarily purchase and prepare meals separately are an AG . . . EXCEPTION: 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.

- 5) West Virginia Income Maintenance Manual, Chapter 20.2 (Exhibit M-8) 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.

- 6) Respondent testified that she and her ex-husband had separated and eventually divorced. She stated that she and her ex-husband had lived in the home at -----, but when they were divorced in October, 2006, he permitted her to live in the home and he moved elsewhere. She testified that she and her ex-husband did not live together and had not done so since their divorce, but he paid her utility bills and gave her \$300 per month for household expenses. She stated that he paid for her post office box rental and continued to use her post office box to receive his mail, and this was why he listed an identical mailing address when he updated his driver's license.

Respondent gave no explanation as to why her ex-husband listed his physical address as being the same as hers when he renewed his driver's license in April 2010.

VIII. CONCLUSION OF LAW:

- 1) Respondent received SNAP benefits from June 1, 2010 through March 31, 2011. The Department submitted evidence to indicate that in April, 2010, Respondent's ex-husband updated his driver's license and in doing so, listed Respondent's physical and mailing address as his residence. Respondent testified that her ex-husband used her post office box because he paid all of her bills, including her post office box rental. While this explanation may account for the identical mailing address, it does not account for the identical physical address. Therefore, I find that Respondent lived with her ex-husband throughout the repayment period of December 2010 to February 2011.
- 2) The fact that Respondent and her ex-husband were divorced has no bearing on this matter. Respondent's ex-husband would have to be included in the same assistance group as his children.
- 3) Because she did not report her ex-husband was living in her home and working, Respondent was overpaid SNAP benefits in the amount of \$5403.
- 4) Policy is clear that if a SNAP assistance group receives more SNAP benefits than it is entitled to receive, a repayment claim must be established.
- 5) The Department's proposal to establish and seek collection of a repayment claim therefore is 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 \$5403 for the period December 1, 2010 through February 28, 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Respondent's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 21st Day of July, 2011.

**Stephen M. Baisden
State Hearing Officer**