



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

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' proposal to establish a Supplemental Nutrition Assistance Program (SNAP) 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 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 Agency or the household, are subject to repayment. (West Virginia Income Maintenance Manual Chapter 20.2)

Information submitted at your hearing reveals that you received SNAP benefits to which you were not entitled as the result of an unintentional client error. Therefore, a repayment claim should be established.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish and seek collection of a SNAP claim in the amount of \$872.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Lori Woodward, Repayment Investigator, DHHR

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

IN RE: -----,

Respondent,

v.

ACTION NO.: 11-BOR-1548

**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 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 convened on August 18, 2011 on a timely appeal filed July 19, 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 food coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

-----, Respondent
Lori Woodward, Repayment Investigator, WVDHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department is correct in its proposal to establish and seek repayment of a SNAP claim.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapters 10.3, DDDD, 2.2, B, and 20.2.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Fair Hearing Request Form
- D-2 Food Stamp Claim Determination form, Investigation Findings, Benefit Recovery Referral information, Case Members History, SNAP Issuance History- Disbursement, Food Stamp Allotment Determination and SNAP Benefit Worksheets
- D-3 West Virginia Income Maintenance Manual Chapters 1.2, 1.4 and 2.2
- D-4 West Virginia Income Maintenance Manual Chapter 20.2 and WVDHHR Common Chapters Manual Section 740
- D-5 Rights and Responsibilities signed by Respondent on January 16, 2010

VII. FINDINGS OF FACT:

- 1) The Respondent was a recipient of Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, benefits.
- 2) WVDHHR Repayment Investigator (RI) Lori Woodward testified that the Respondent received \$872 in SNAP benefits to which she was not entitled for the period of June 2010 through January 2011, as reflected in Exhibit D-2, a Food Stamp Claim Determination form.
- 3) Ms. Woodward contended that the over issuance occurred because the Respondent failed to report that her daughter, -----, began receiving Social Security income in April 2010 (as indicated in Exhibit D-2). The Investigator explained the Respondent was required to report that her household income had exceeded 130% of the Federal Poverty Level upon receipt of -----'s Social Security income. If the information had been reported by May 10, 2011 (the 10th calendar day of the month following the month in which the change occurred), the Claimant's SNAP benefits would have decreased from \$109 per month to zero (0) effective June 2010. The RI testified that the SNAP claim was written as an unintentional client error.
- 4) The Respondent testified that she assumed the Social Security income would have been known to the Department since the Social Security Administration is also a government agency. While not represented by legal counsel, the Respondent contended that she spoke with an attorney and was told the beginning date of the repayment period should be the date that the error was discovered by the Department. However, the RI responded that policy states the first month of over issuance is the month the unreported information would have affected SNAP benefits.

The Respondent testified that only 2/3 of the total SNAP allotment should be considered as her portion of the benefits and 1/3 should be considered her daughter's portion. The RI explained that the Department does not consider proportional liability when computing SNAP claims for an Assistance Group.

The Respondent maintained that she is disabled and is financially unable to repay the SNAP benefits.

- 5) West Virginia Income Maintenance Manual Chapter 10.3, DDDD, states that Social Security payments are considered unearned income for SNAP purposes.
- 6) West Virginia Income Maintenance Manual Chapter 2.2, B, states that, once approved, all SNAP Assistance Groups must report when the total gross earned and unearned income of the Assistance Group and all other individuals residing with the Assistance Group exceeds the Assistance Group's gross income limit. This must be reported no later than the 10th calendar day of the month following the month in which the change occurs.
- 7) West Virginia Income Maintenance Manual Chapter 20.2 (D-4) states that when an Assistance Group 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 entitlement the Assistance Group received and the entitlement the Assistance Group should have received [emphasis added].
- 8) West Virginia Income Maintenance Manual Chapter 20.2, C (D-4) states that there are two types of Unintentional Program Violations- client errors and Agency errors. A UPV is established when:
 - An error by the Department resulted in the over issuance.
 - An unintentional error made by the client resulted in the over issuance.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that an Unintentional Program Violation- client error - can be established when an error by the client results in an over issuance of SNAP benefits.
- 2) The Respondent failed to report the receipt of her daughter's Social Security income as required by policy, resulting in an over issuance of SNAP benefits for the period of June 2010 through January 2011.
- 3) The Department's proposal to establish and seek collection of a repayment claim based on an unintentional client error is, therefore, affirmed.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the Agency's proposal to establish and seek collection of a SNAP repayment claim of \$872.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th Day of August, 2011.

**Pamela L. Hinzman
State Hearing Officer**