



State of West Virginia  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
Office of Inspector General  
Board of Review  
State Capital Complex  
Building 6, Room 817B  
Charleston, WV 25305

Bob Wise  
Governor

Paul L. Nusbaum  
Secretary

January 5, 2005

Dear Ms.

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 7, 2004. Your hearing request was based on the Department of Health and Human Resources' proposal to establish and seek collection of a Client, Unintentional Error, Food Stamp claim.

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 as follows: When an assistance group has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing a claim. Collection action is initiated against the Assistance Group which received the overissuance. All claims, whether established as a result of an error on the part of the Agency or the household, are subject to recoupment. (West Virginia Income Maintenance Manual § 10.4, C & 20.2).

The information which was submitted at the hearing revealed that the Agency was correct in their action to establish a Food Stamp claim. Your unintentional withholding of information regarding HUD assistance caused incorrect deductions to be applied to your Food Stamp benefits.

It is the decision of the State Hearing Officer to uphold the Agency's actions to seek collection of the Food Stamp overissuance from you.

Sincerely,

Erika Young  
State Hearing Officer  
Member, State Board of Review

cc: ✓ Chairman, Board of Review  
DHHR, Teresa Smith, RI

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on April 7, 2004 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 April 7, 2004, on a timely appeal filed February 26, 2004.

It should be noted here that recoupment under the Food Stamp program has been suspended through this hearing process.

All persons giving testimony were placed under oath.

**II. PROGRAM PURPOSE:**

The program entitled **Food Stamps** is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

The purpose of the **Food Stamp Program** is to provide an effective means of utilizing the nations abundance of food to safeguard the health and well-being of the nations population and raise levels of nutrition among low-income households. This is accomplished through the issuance of food stamp 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

, Claimant's Husband

Teresa Smith, State Repayment Investigator, Agency Representative

Presiding at the hearing was Erika Young, 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 Agency was correct in their proposal to pursue repayment from you for an established Client Error Food Stamp claim.



#### V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 10.4; & § 20.2.  
7 CFR § 273.18 - Code of Federal Regulations.

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

Exhibit -D-1 Case Comments from dates January 9, 2003 thru January 14, 2004  
Exhibit -D-2 Housing Assistance Payments Contract dated February 24, 2003  
Exhibit -D-3 Food Stamp Claim Determination  
Exhibit -D-4 Notification of FS Overissuance dated January 21, 2004  
Exhibit -D-5 Income Maintenance Policy, Chapter 20.2

#### VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) On January 9, 2003 the claimant was in the Department of Health and Human Resource (DHHR) office to apply for Food Stamps and Low Income Energy Assistance Program benefits, (LIEAP). A rent amount of \$334 was reported at that time. On January 15, 2003 both the claimant and her husband, , were in the DHHR Office to complete an application for Cash Assistance. At that visit, an old rent receipt was provided for the purposes of completing the Food Stamp application, and the claimant was advised of her obligation to report changes.
- (2) On March 20, 2003 the Department received a letter from Ms. reporting changes. No HUD assistance was reported in this letter.
- (3) On April 10, 2003 both Mr. and Mrs. were in the DHHR Office to apply for Emergency LIEAP assistance. No reporting of HUD assistance was noted at that time.
- (4) A Home visit was made on April 10, 2003, by the WV Works at which time no HUD assistance was reported. The claimant called the DHHR office on June 11, 2003 to report a new telephone number and there was no mention made of HUD assistance.
- (5) On August 15, 2003 the claimant called to report she had started a job. There was no mention of HUD assistance. On August 29, 2003 an application was made for Medicaid, and no HUD assistance was reported.
- (6) At a December 12, 2003 Food Stamp review. When questioned about her rent obligation, the claimant did report that most of her rent was being paid by HUD.
- (7) The HUD contract ( Exhibit D-2) reveals that this rent assistance did not go into affect until February 1, 2003 which was after the original FS application made on January 9, 2003. It was also after the date of the WV Works application on January 15, 2003.
- (8) Ms. testified that she did contact her worker at the time the HUD assistance was approved. She states that she assumed that the HUD assistance was being considered in her Food Stamp case.



**Section VII. (Continued)**

- (9) West Virginia Income Maintenance Manual § 10.4, :  
This section contains policy relating to the anticipation of income for Food Stamp purposes. Policy states as follows: The worker must determine the amount of income that can be reasonably anticipated for the Assistance Group.
- (10) West Virginia Income Maintenance Manual § 20.2:  
When it is discovered that excess benefits have been issued, corrective action must be taken. 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.
- (11) West Virginia Income Maintenance Manual § 20.2,C:  
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, except when the Worker failed to have the application form signed.  
- An unintentional error made by the client resulted in the overissuance
- (10) West Virginia Income Maintenance Manual # 20.2, E:  
Collection action is initiated against the AG which received the overissuance.  
The following persons are equally liable for the total amount of the overpayment and are liable debtors:  
- Adult or emancipated minors in the AG  
- Disqualified individuals who would otherwise be required to be included  
- An unreported adult who would have been required to be in the AG had he been reported  
- Sponsors of alien AGs when the sponsor is responsible for the overpayment  
- An authorized representative of an AG if he is responsible for the overpayment

**VIII. DECISION:**

Policy provides that Food Stamp eligibility is determined based on countable income and the number of individuals in the assistance group. Further, policy states that when an 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. Collection action is initiated against the assistance group which received the overissuance regardless of who was at fault.

Testimony of both the Claimant and the Agency representative clearly concludes that Ms. [redacted]'s countable Food Stamp income was calculated based on the full rent amount instead of being based on the reduced obligation of rent. The case comments in the case show that the case worker was diligent in documenting contacts made with the claimant. The HUD contract was signed on February 24, 2003. No contacts were documented in the case between the time period of January 15, 2003 and March 20, 2003. The establishment of an Unintentional Client Error Food Stamp claim for the month of March 2003 thru December 2003 is justified.

**January 5, 2005**

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**Section VIII. (Continued)**

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the Agency's action to seek repayment of the Food Stamp claim, from the claimant.

**IX. RIGHT OF APPEAL**

See Attachment

**X. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29