

**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 20, 2005 for Mrs. _____. 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 February 4, 2005, upon a timely appeal filed January 10, 2005.

It should be noted here that Mrs. _____ was not receiving Food Stamp Benefits at the time of the hearing.

This issue could not be resolved in a scheduled pre-hearing conference between the parties. The meeting was held on January 5, 2005.

All parties agreed to provide truthful information during the fair hearing.

II. PROGRAM PURPOSE:

The Program Food Stamps is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of the Food Stamp Program 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:

_____, Defendant
Danita M. Bragg, Repayment Investigator

Presiding at the hearing was Ray B. Woods, Jr., M. L. S., State Hearing Officer and, a Member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

Did an over issuance of Food Stamp Benefits occur, when Mrs. _____ failed to report receiving money from other individuals?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 10.3 (L) *CASH CONTRIBUTIONS FROM INDIVIDUALS* and; West Virginia Income Maintenance Manual Chapter 20.2 *FOOD STAMP CLAIM AND REPAYMENT PROCEDURES*.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department' Exhibits:

- D-1 Food Stamp Claim Determination
- D-2 Food Stamp Calculation Sheet
- D-3 Food Stamp Issuance History – Disbursement
- D-4 Food Stamp Allotment Determination
- D-5 WVIMM Chapter 10.3 - CASH CONTRIBIUTIONS
- D-6 WVIMM Chapter 20.2 FOOD STAMP CLAIM AND REPAYMENT PROCEDURES
- D-7 Written Statement provided by Mrs. _____ dated 03/11/04
- D-8 Rights and Responsibilities signed by Mrs. _____ dated 09/04/03
- D-9 IG-BR-30 (Request for a fair hearing) dated 01/06/05
- D-10 Notification of Food Stamp Over Issuance dated 10/25/04
- D-11 Scheduling Notice dated 01/10/05
- D-12 Fair Hearing Summary

Claimants' Exhibits:

- C-1 Fair Hearing Summary

VII. FINDINGS OF FACT:

- 1) Mrs. Bragg submitted the following Fair Hearing Summary:

I. IDENTIFYING INFORMATION:



RFA#: _____

Claim#: _____

SSN: _____

II. CASE DATA:

other ELIGIBILITY FACTOR: Ms. _____ did not report she was receiving money from individuals not in the household in the amount of \$800.00, This income was not reported and food stamps were received based on zero income.

DATE OPENED: January 13, 1997 DATE CLOSED: August 31, 2004 (Missed Review)

OVER ISSUANCE PERIOD: September 2003 through April 2004

OVER ISSUED AMOUNT: \$1,392.00

III. SUMMARY OF FACTS:

The Claims & Collection Unit of the Office of the Inspector General received a repayment referral on this case July 12, 2004, from the _____ County DHHR Front End Investigation Unit for over issuance of FS due to Ms. _____ receiving food stamps based on zero income when in fact she was receiving \$800 a month from family members. Ms. _____ did sign a statement for the investigator stating she did receive this money from her father-in-law and mother. This resulted in an over issuance of food stamps for the months of September 2003 through April 2004. Ms. _____ has requested a hearing for this repayment as she feels since she used this income to pay bills, she should not have to report this income.

DHS-1) Agency Form ES-FS-5 Food Stamp Claim Determination Form. This form shows the calculation of the over issuance. The over issuance is determined by comparing the actual amount of Food Stamps issued to the household with the correct amount of Food Stamps. These amounts are shown on the right and left-hand columns of the form respectively. The corrected amounts are determined by recalculating Food Stamp allotments with the excluded eligibility factor which in this case is income not counted in food stamp eligibility calculations. The total overpayment of \$1,392.00 for this claim period is shown at the bottom of the form, inside the block marked "Loss to Program."

DHS-2) IQFS Screen Prints from the RAPIDS Computer System. These screen prints show the amount of Food Stamps issued to Ms. _____' household during the claim months. The amounts under the heading "Issued Amt" correspond with the actual coupon allotment amounts in the DHS-1.

DHS-3) EFAD Screen Prints from the RAPIDS Computer System. These screen prints show the calculation of the Food Stamp allotments at the time they were issued. They do not include the incorrect eligibility factor of total ineligibility.

DHS-4) IM Manual Chapter 10.3 Income Chart for Food Stamps. This chart shows that cash contributions received from individuals not sharing household expenses is counted as unearned income.

DHS-5) IM Manual Chapter 20.2 - Food Stamp Claims and Repayment Procedures.

DHS-6) Statement signed by Ms. _____. This statement shows that Ms. _____ did receive cash from her father-in-law and mother. Average amount per month being \$800.00.

DHS-7) Rights and Responsibilities - Ms. _____ signed the Rights and Responsibilities dated September 4, 2003, which state in Item 7 - I understand I will have to repay any Food Stamp benefits issued to me that I was not eligible for when the reason I received the incorrect benefits was because of an unintentional error made by me or by WV DHHR.

IV. RIGHTS AND RESPONSIBILITIES: EVALUATION OF CLIENT'S UNDERSTANDING OF AGENCY POLICY AND RECOMMENDATIONS:

Based on the information and policy presented, it is recommended by the Investigations and Fraud Management/Claims & Collections Unit, that the over issuance of food stamps stay in this case and recoupment be allowed for this over issuance.

2) Mrs. _____ submitted the following Fair Hearing Summary:

I _____ do not feel that I should be responsible for repayment of the food stamps that the _____ County DHHR allotted my family. The DHHR is in fault for any over draft that I received.

First, they are accusing of 8 months of overdraft, for which I signed up for food stamps every 3 months. This in reasonable terms would make it 9 months. I gave full information; in turn the workers told me I was eligible for the amount in which I received. I have no idea that I wasn't eligible for the amount; I don't have the guidelines to go by. Also, they let it go on for 8 months, which it should have been corrected before the amount got so much. After the first 3 months, that would have been more appropriate. Also they have me on those papers as receiving \$800 dollars a month. We only received enough to cover what our bills came to for each month from our parents, which some months was much less than \$800. Not to mention we are liable to pay that money back to our parents. The money was a loan not a gift.

Second, on several occasions that I was in the _____ Co. DHHR the workers would change the amount of my assets to comply with your guidelines. I told each worker about

all of the assets that I own. I gave them the correct information and they would change the values to fit your guidelines.

I spoke with Danita Bragg when I first received the letter of repayment. She told me to sign up on food stamps and they would take it out each month. She also told me not to fill out the repayment form until I get my first month of food stamps, which she said that I should be eligible for if I was in the same situation as before. When I went to sign up, the worker at [REDACTED] DHHR told me that I was in fact, eligible. Well, I tried that and they sent me a letter stating I was not eligible weeks later. Every worker I have spoken with has steered me in different directions. Not one has the same answers as the one before. This would confuse any one.

Next comes the day that I went to speak with Danita Bragg at Fayette DHHR, (middle of January) asking to see the documents that are the case against me. She showed me one piece of paper with the amount that I received and the amount I was eligible to get. That in a nut shell was not enough documentation for me to build my defense on. On January 28, 2005, I called again and asked her to fax me the documents. She said that she would mail them instead, that she was not allowed to fax that many sheets. Hopefully I will receive them in time for my hearing.

Also In the maintenance manual, it says that when requesting a hearing the DHHR will stop all collections until after the hearing. Well, February 3, 2005 my husband and I received another letter stating that I have not made payment yet. This is another example of communication problems at the [REDACTED] Co. DHHR.

My husband and I are currently unemployed. We have two children and we are struggling to get by. I am afraid to ask for any help from the DHHR because of what is happening now.

I have been really sick. The pain in my stomach is unbearable unless I have medicine that is real expensive. I have to pay to go to the doctors since I have no insurance. We have help from our parents at the present time which is hopeful. And we are looking to our taxes to catch up. My husband and I have been looking for employment but no luck yet.

Please consider sanctioning instead of repayment. In turn, I will not apply for food stamps for years to come.

3) Mrs. _____' household received \$1,392.00 in over issued Food Stamp Benefits. The over issuance was caused by unreported unearned income

VIII. CONCLUSIONS OF LAW:

- 1) West Virginia Income Maintenance Manual Chapter 10.3 (L) *CASH CONTRIBUTIONS FROM INDIVIDUALS* states in part, "If not for shared expenses, it is counted as unearned income for the Food Stamp Program."
- 2) West Virginia Income Maintenance Manual Chapter 20.2 *FOOD STAMP CLAIM AND REPAYMENT PROCEDURES* states in part,

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

NOTE: Referrals are made for all over issuances, regardless of the dollar amount. Claims are not written for under \$50 unless there is a liable debtor receiving Food Stamps at the time the claim is written, the error is discovered as the result of a QA review, or it is an IPV claim. In these three situations claims under \$50 are written and collected. IPV claims must be established regardless of the total amount or participation status of the liable debtor(s).

IX. DECISION:

It is the decision of this State Hearing Officer to UPHOLD the proposal of the Department, to seek a repayment of over issued Food Stamp Benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29