



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

July 20, 2005

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 5, 2005. Your hearing request was based on the Department of Health and Human Resources' decision to establish a Food Stamp claim against your household. **This is an amended decision addressing a new claim amount.**

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 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 overpayment. 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 your hearing, revealed that your household received an over issuance of Food Stamps during the months of March 2004 thru November 2004.

It is the decision of the State Hearing Officer to uphold the action of the Department to establish a Food Stamp claim of \$558. and to seek repayment of the claim from you.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Crossland, DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW

Claimant,

v. Action Number: _____

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on July 5, 2005 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 July 5 on a timely appeal, filed February 14, 2005.

It should be noted here that the repayment and recoupment have been postponed pending a hearing decision.

II. PROGRAM PURPOSE:

The Programs entitled Food Stamps and WV Works 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 EBT 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

Karen Crossland, DHHR Repayment Investigator

Presiding at the Hearing was Sharon K. Yoho, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Agency was correct in their actions to establish and collect an overpayment of Food Stamps.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 1.2, 2.2, and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp Claim Determination
- D-2 Verification of Self Employment Income
- D-3 West Virginia Income Maintenance Manual Policy § 2.2
- D-4 West Virginia Income Maintenance Manual Policy § 20.2
- D-5 Notice of Food Stamp Over issuance dated January 24, 2005

VII. FINDINGS OF FACT:

- 1) _____ applied for Food Stamp benefits in the WV DHHR office on March 1, 2004. She reported at that time that the only income in the home was Social Security received for _____. She did report her husband, _____, to be self-employed but not having any income in the month of February 2004.
- 2) _____ returned to the DHHR office on March 18, 2004 to apply for Medicaid and reported that _____ was self-employed but had not had any business in the recent past.
- 3) _____ completed a Food Stamp review in the DHHR office on July 26, 2004. She again reported that Mr. _____ was self-employed. The worker requested that verification of his income be provided. No verification was returned.
- 4) On August 3, 2004, both _____ and _____ were in the DHHR office to apply for Emergency Assistance and reported that _____ had no income from his self-employment in July 2004.
- 5) On November 5, 2004, _____ was in the DHHR office to complete an application for the Low Income Energy Assistance Program (LIEAP). She reported that Mr. _____ was receiving some income from working on cars at their home. His current income was verified and was then counted for the Food Stamp program.

- 6) The agency's repayment unit was advised that Mr. _____ did have income from his self-employment. The repayment investigator contacted _____ in a letter dated December 29, 2004 to obtain verification of the income Mr. _____ has had for the year 2004.
- 7) This verification, Exhibit D-2, was received and used to calculate an overpayment of food stamps for \$833. The verification showed earnings for each month of 2004.
- 8) Mr. _____ looked at the above verification the day of the hearing and had some objection to what his wife had reported as income from his business. He was advised at the hearing to provide any changes he felt needed to be made in the income that had been previously reported by July 15, 2005 to Ms. Crossland. He has provided the changes and the claim was recalculated by Ms. Crossland to be \$558.
- 9) **WV Income Maintenance Manual § 1.2:**
The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility. The client must be instructed that his failure to fulfill his obligation may result in repayment of benefits.
- 10) **WV Income Maintenance Manual § 2.2:**
Reportable changes must be reported within 10 days of the date the change becomes known to the assistance group.
- 11) **WV Income Maintenance Manual § 20.2**
Collection action is initiated against the assistance group which received the over issuance. A claim is established when: An unintentional error made by the client resulted in the over issuance.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in Chapter 1.2 that the client has the responsibility to provide information to insure accurate benefits are issued, and that failure to do so may result in repayment.
- 2) When an assistance group is issued benefits which it was not entitled to receive, policy 20.2 stipulates that collection action be taken against the assistance group who received the benefits.

IX. DECISION:

I find that the claimants were over issued Food Stamp benefits during the months of March 2004 thru November 2004 due to their failure to provide accurate income information. I rule to **uphold** the agency in its actions to establish a Food Stamp claim for \$558. and to collect the overpayment from the claimants.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 20th Day of July 2005.

Sharon K. Yoho
State Hearing Officer