



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

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

June 28, 2005

Dear Ms. \_\_\_\_\_,

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 31, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to establish and seek repayment of a Food Stamp over issuance.

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 because 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 against your household and to pursue repayment from you.

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,

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

cc: Chairman, Board of Review  
DHHR, Karen Crossland, RI  
Attorney, [REDACTED]

## SUMMARY AND DECISION OF THE STATE HEARING OFFICER

\_\_\_\_\_  
June 28, 2004

### I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on March 31, 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 a timely appeal filed February 25, 2005.

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 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 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:

\_\_\_\_\_  
Karen Crossland, State Repayment Investigator, Agency Representative

\_\_\_\_\_, Attorney at Law, Claimant's council

Presiding at the hearing was Sharon Yoho, 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 the claimant for an established Client Unintentional 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 Food Stamp Claim Determination, months December 1998 through February 2000  
Exhibit -D-2 Food Stamp Claim Determination, months November 2001 through June 2004  
Exhibit -D-3 Bank Statement, IRA opened February 1990  
Exhibit -D-4 Bank Statement, IRA opened March 2001  
Exhibit -D-5 [REDACTED] Federal Credit Union account summary  
Exhibit -D-6 Income Maintenance Policy, Chapter 11.3, Maximum Allowable Assets  
Exhibit -D-7 Income Maintenance Policy, Chapter 20.1, Benefit Repayment  
Exhibit -D-8 Notification Letter dated February 7, 2005

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

- (1) On December 10, 1998, \_\_\_\_\_ applied for Food Stamp and Medicaid benefits at the [REDACTED] County DHHR office. At this application \_\_\_\_\_ reported that she had no bank accounts, Certificates of Deposits or IRAs. The claimant's application was approved for Food Stamp benefits effective December 1998.
- (2) \_\_\_\_\_ continued to receive Food Stamp benefits on and off through the period of June 2004. Numerous applications and reviews were completed during the time period. At none of these applications or reviews did the claimant report that she had any IRA accounts.
- (3) On July 21, 2004, \_\_\_\_\_ applied for School Clothing Allowance benefits at the DHHR office and provided verification at this time of her bank accounts. From this verification, the worker was able to see that \_\_\_\_\_ had several IRAs and interest income that she had not previously reported.
- (4) One IRA, in the amount of \$2,110.07, was opened on February 21, 1990, which puts the client's assets over the \$2,000. maximum allowed. Another in the amount of \$2,175.18, was opened on March 01, 2001. Other IRAs were opened on subsequent dates. Two certificates of deposits were also reported, on \_\_\_\_\_'s [REDACTED] Federal Credit Union Financial Summary dated June 30, 2004.
- (5) Some of the bank accounts were held in joint accounts with the claimant's mother and her minor son. The claimant however had full access to all accounts.
- (6) The caseworker of the July 21, 2004 application referred the asset information to the Claims and Collection unit, which established a Client Unintentional Error claim in the total amount of \$9,429.
- (7) \_\_\_\_\_ testified that she did not open these accounts. She states that her mother opened the accounts for the purpose of assisting in the future education expenses for her son. The claimant also reports that she was not aware that she had access to the accounts.
- (8) West Virginia Income Maintenance Manual ' 11.3:  
This section contains policy relating to the maximum allowable assets. For the Food Stamp program, \_\_\_\_\_'s benefit group had a maximum allowable asset level of \$2,000 as listed in the asset chart. To be eligible for the Income Maintenance Program, titled Food Stamps, the total amount of countable assets cannot exceed the amounts, which are listed in the chart.

- (9) 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.
- (10) West Virginia Income Maintenance Manual ' 1.2 E:  
The client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility. Failure to fulfill his obligation may result in Repayment of benefits.

### **VIII. DECISION:**

Policy reveals that Food Stamp eligibility is determined based on countable assets as well as income and that to be eligible, the amount of total countable assets cannot exceed the maximum allowable. 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. Adult or emancipated minors in the assistance group are liable for the claim.

Testimony of both the Claimant and the Agency representative clearly concludes that there was an over issuance of Food Stamp benefits during the months of December 1998 through February 2000 and the months of November 2001 through June 2004. There was sufficient evidence presented to support that the over issuance was due to the unintentional withholding of asset information by the claimant.

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the Agency's action to establish this unintentional client error claim and to seek repayment of the Food Stamp claim, in the amount of \$9,429., from the claimant.

### **IX. RIGHT OF APPEAL**

See Attachment

### **X. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29