



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 17, 2005

Dear Ms. _____,

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 25, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to establish and seek repayment of a 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; however the claim should have been established as an unintentional Agency error instead of client error.

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

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

June 17, 2004

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on March 25, 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 April 27, 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:

_____, Claimant
Karen Crossland, State Repayment Investigator, Agency Representative
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 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.

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VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Exhibit -D-1 Food Stamp Claim Determination
Exhibit -D-2 Income Maintenance Policy, 1.2, Client Responsibility
Exhibit -D-3 Income Maintenance Policy, Chapter 20.1, Benefit Repayment
Exhibit -D-4 Leap application, undated- requested by Hearing Officer

VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) On November 23, 2004, Ms. _____ applied for Food Stamps in the _____ County DHHR office. Benefits were approved counting SSI for household member, _____, and earned income for household member, _____. No SSI income was included for _____.
- (2) The claimant completed a leap application in March 2005. When the worker was finalizing this application, the client admitted that both she and _____ receive SSI income. This income was added to the application under _____ and _____'s names instead of _____ and _____.
- (3) Ms. Crossland testified that the November 23, 2004 application did not consider _____'s SSI income because _____ did not report the income. She also testified that the Leap application listed no income initially and it was only after the worker found _____'s SSI income in the computer system that _____ responded that both she and _____ receive SSI.
- (4) Ms. _____ testified that she did report both SSI amounts to the caseworker during the November 23, 2004 application. She also testified that she also reported during that application that her rent amount was \$600, but the department only counted \$400. for this expense. The department has since then corrected the rent expense error.
- (5) The Food Stamp benefits issued in the months of January thru April 2005 were incorrectly calculated, due to the claimant's SSI income not being counted as well as the incorrect rental expense being counted.
- (6) Subsequent to the hearing date of May 25, Ms Crossland has obtained rent receipts and has recalculated the Food Stamp over issuance to reflect the correct rental expense, which has reduced the claim from \$1020. to \$780.
- (7) West Virginia Income Maintenance Manual ' 10.4, :
This section contains policy relating to the Shelter/Utility Deduction. After all other exclusions, disregards and deductions have been applied, 50% of the remaining income is compared to the total monthly shelter and utility costs to determine the shelter and utility deduction. The expense must be allowed only if the benefit group is obligated to pay, and the cost is paid with the resources of the benefit group.
- (8) 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.
- (9) 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.

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VIII. DECISION:

Policy reveals that Food Stamp eligibility is determined based on countable income and allowable deductions. 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 January 2005 and April 2005. There was not sufficient evidence presented to support that the over issuance was the fault of the client. The Agency clearly failed to enter the rent amount, which was reported by the client in November. The Agency clearly did not count Ms. _____ SSI income; however the testimony of Ms. _____ indicates that this income as well as the correct rent was reported by her.

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 a Food Stamp claim in the amount of \$780., from the claimant, and that the claim be entered in the system as an unintentional Agency Error claim.

IX. RIGHT OF APPEAL

See Attachment

X. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29