



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704**

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

July 20, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 19, 2005. Your hearing request was based on the Department of Health and Human Resources' action to require repayment of a Food Stamp overissuance claim.

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: collection action if initiated against the AG which received the overissuance. When the AG composition changes, collection is pursued against any and all AG's which include a liable debtor (WV Income Maintenance Manual Section 20.2 C and Federal Regulations Section 273.18).

The information which was submitted at your hearing revealed that you were an adult member of the Assistance Group at the time of the Food Stamp overissuance which occurred from March, 2004 through October, 2004 and are liable for repayment.

It is the decision of the State Hearings Officer to uphold the action of the Department to require repayment of a Food Stamp overissuance claim.

Sincerely,

Thomas M. Smith
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Brian Shreve, Repayment Investigator

**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 19, 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 19, 2005 on a timely appeal, filed May 6, 2005.

It should be noted here that the claimant's benefits have continued pending a hearing decision.

II. PROGRAM PURPOSE:

The Program entitled Food Stamp Program 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:

1. _____, Claimant.

2. Brian Shreve, Repayment Investigator.

Presiding at the Hearing was Thomas M. Smith, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department took the correct action to require repayment of a Food Stamp overissuance claim under the case name of _____ in the amount of \$751 as the claimant was an adult member of the Assistance Group at the time the overissuance occurred.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 20.2.
Federal Food Stamp Regulations Sections 273.18.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Copy of individual eligibility history printout.
- D-2 Copy of non-financial eligibility determination printout (5 pages).
- D-3 Copy of Federal Food Stamp regulations 273.18 (12 pages).
- D-4 Copy of WV Income Maintenance Manual Section 20.2 (13 pages).
- D-5 Copy of notification letters (4 pages).

VII. FINDINGS OF FACT:

- 1) The claimant was an adult member of the Food Stamp Assistance Group (AG) in the case of _____ during the period of January, 2004 through October, 2004 and a Food Stamp overissuance claim was established against Ms. _____ for the period of March, 2004 through October, 2004 due to a change in household composition which was not reported by Ms. _____ in a timely manner (Exhibits #D-1 and D-2).
- 2) A Food Stamp overissuance claim in the amount of \$751 was established in December, 2004 with notification issued to Ms. _____ on 12-15-04 (Exhibit #D-5).
- 3) The claimant was notified on 5-3-05 that the balance on the claim was \$707 and that she was required to repay the overissuance and the claimant requested a hearing on 5-6-05.
- 4) Mr. Shreve testified that Federal and State regulations require that any adult member of a household is liable for repayment of a Food Stamp overissuance claim.

- 5) The claimant testified that she was incarcerated from April to June, 2004 and that she left the home of Ms. _____ on August 9, 2004 and did not return and that she does not think she should have to repay the overissuance.
- 6) The claimant testified that she did not stay with Ms. _____ every night and that the household member who left (_____) only stayed there for two (2) weeks.
- 7) WV Income Maintenance Manual Section 20.2 states, in part:

WV Income Maintenance Manual Section 20.2 E states that “collection is initiated against the AG which received the overissuance. When the AG composition changes, collection is pursued against any and all AG’s which include a liable debtor. The following persons are equally liable for the total amount of the overpayment and are liable debtors: Adult or emancipated minors in the AG”.....For AG’s containing a liable debtor that are certified at the time the claim is established, collection activity may begin by recoupment, after the notice period expires. Recoupment by coupon allotment reduction is mandatory for all claims when a liable debtor is certified for Food Stamps. RAPIDS automatically begins recoupment and posts these payments to the claim.
- 8) Federal Regulations Section 273.18 (a)(4) states “the following are responsible for paying a claim: (i) each person who was an adult member of the household when the overpayment or trafficking occurred”.

VIII. CONCLUSIONS OF LAW:

- 1) Federal regulations in Section 273.18 (a) (4) and State regulations in WV Income Maintenance Manual Section 20.2 E require that any adult member of the AG at the time the overissuance occurred repay a Food Stamp overissuance.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to require repayment of a Food Stamp overissuance claim for the period of March, 2004 through October, 2004.

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.

**Thomas M. Smith
State Hearing Officer**