



**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**

June 6, 2006

Dear Ms. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 17, 2006. Your hearing request was based on the Department of Health and Human Resources' decision to establish an Agency error Food Stamp claim against your household.

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 September 2005 thru February 2006.

It is the decision of the State Hearing Officer to uphold the action of the Department to establish the Agency Error Food Stamp claim of \$1500. 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: 06-BOR-1590

**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 May 17, 2006 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 May 17, 2006 on a timely appeal, filed April 6, 2006.

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

II. PROGRAM PURPOSE:

The Program entitled 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 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

____, claimant's husband

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, 9.1, and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp Claim Determination
- D-2 Food Stamp Claim computation sheets
- D-3 Notice of Food Stamp over issuance dated March 6, 2006
- D-4 West Virginia Income Maintenance Manual Policy § 20.2

VII. FINDINGS OF FACT:

- 1) _____ was in the [REDACTED] County DHHR office on September 20, 2005 to apply for food stamps for her family.
- 2) The claimant correctly reported and verified her husband's earnings. She reported that her husband was paid weekly; however when the worker entered the income into the computer system it was entered as a bi-weekly income.
- 3) The income computed as bi-weekly income produced monthly income of \$1631. which caused the food stamps to be approved. If the income had been computed correctly, as weekly income, the monthly income would have been \$2477. which is excessive for food stamp eligibility for a household of four.
- 4) The Department became aware of this error in February 2006 at the case review. The department then closed the case due to excessive income and referred the case to the claims and collection unit for repayment.
- 5) The Claims and Collection unit established a Food Stamp claim of \$1500. that covers months, September 2005 thru February 2006.

- 6) Ms. ____ was not clear on how the Department computes monthly income. Ms. Crossland explained this. The Department multiplies by 4.3 for weekly income and by 2.15 for bi-weekly income. The claimant did not dispute the amount of income used in the calculations.
- 7) The claimant does not believe she should have to pay back food stamps received due to an error made by the worker and not by her.
- 8) **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 or the agency results in the over issuance.

Collections may be made on only one claim at a time. Claims are collected in the following priority order:

- Intentional Program Violation
- Unintentional Program Violation, Client error
- Unintentional Program Violation, Agency error

VIII. CONCLUSIONS OF LAW:

- 1) Policy 20.2 identifies an Agency Error claim as a claim that is collected against the assistance group who received the over issuance.

IX. DECISION:

I find that the claimant was over issued Food Stamp benefits during the months of September 2005 thru February 2006. I rule to **uphold** the agency in its actions to establish an Agency Error Food Stamp claim for \$1500. in addition, the collection of the overpayment from the claimant's assistance group.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 6th Day of June 2006.

Sharon K. Yoho
State Hearing Officer