



**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**

October 17, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 27, 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 December 2005 thru May 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 \$475. 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: 05-BOR-2132**

**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 September 27, 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 September 27, 2006 on a timely appeal, filed June 5, 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 mother

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 §9.1, and 20.2

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Food Stamp Claim Determination
- D1a Claim calculation sheets
- D-2 West Virginia Income Maintenance Manual Policy § 9.1b
- D-3 West Virginia Income Maintenance Manual Policy § 20.2
- D-4 Notification letter dated May 30, 2006

**VII. FINDINGS OF FACT:**

- 1) The claimant was in the [REDACTED] County DHHR office on December 30, 2005 to make an application for Food Stamps. During this application, she advised the caseworker that she was a full time college student. She also reported that she had no earned income.
- 2) The caseworker included both the claimant and her mother in the Food Stamp budget group.
- 3) The caseworker failed to apply the student policy, which requires a full time college student to work at least 20 hours per week to qualify to be included in a Food Stamp budget group.
- 4) The Department became aware of this error on May 11, 2006 and proceeded to remove the claimant from the Food Stamp budget group leaving only one person in the budget group.
- 5) The Claims and Collection unit was notified of the potential overpayment and an agency error Food Stamp claim of \$475. was established for the months of December

2005 thru May 2006. Ms. Crossland, Repayment Investigator, issued a notice of this established Food Stamp claim on May 30, 2006.

- 6) The claimant requested a hearing on June 5, 2006.
- 7) The claimant and his witnesses do not believe they should be obligated to pay back benefits received due to an error made by the Department. The claimant was not made aware of the student policy at the time of review. She is currently participating in a government funded work-study program and plans to reapply for Food Stamp benefits.

8) **WV Income Maintenance Manual § 9.1:**

Food Stamp Eligibility Determination groups:

Student participation in the food Stamp Program is limited to individuals who meet the criteria in item b.

- He is attending school less than half time.
- He is enrolled full-time in a school or training program which does not meet the definition of an institution of higher education. An institution of higher education is a business, technical, trade or vocational school that normally requires a high school diploma or its equivalent for enrollment.
- He is participating in an on-the-job training program. This does not include the practical experience requirements, which may be part of some courses of study, i.e., student teaching, internships, etc.
- The student is employed at least 20 hours per week and is paid for the employment.

9) **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 is clear in Chapter 9.1 that a person enrolled in an Institution of Higher learning attending more than half time must be classified as a full time student for Food Stamp eligibility purposes. Testimony confirms that the claimant was a full time college student during the months of December 2005 thru May 2006.
- 2) Testimony supports that the claimant was not employed at least 20 hours per week in paid employment.
- 3) 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's household was over issued Food Stamp benefits during the months of December 2005 thru May 2006. I rule to **uphold** the agency in its actions to establish an Agency Error Food Stamp claim for \$475. and to collect 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 17th Day of October 2006.**

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**Sharon K. Yoho**  
**State Hearing Officer**