



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P. O. Box 6165  
Wheeling, WV 26003

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

August 29, 2006

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 17, 2006. Your hearing request was based on the Department of Health and Human Resources' decision to establish a 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 that when an assistance group (AG) has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing a claim. All claims, whether established as a result of an error on the part of the Agency or the household, are subject to repayment. (West Virginia Income Maintenance Manual '10.4, C & 20.2).

The information submitted at your hearing reveals that the Department approved your application for Food Stamp benefits in January 2005 based on a household rental expense of \$355 per month. According to the evidence you provided a rent receipt in the amount of \$355 on the date of your application but were later approved for rental assistance through HUD and did not report this change in rent amount until March 2006. As a result of this failure to report this change in rent, your household received Food Stamp benefits for which you were not eligible during the period March 2005 through March 2006.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish and seek collection of an adjusted Food Stamp claim for the period March 1, 2005 through March 31, 2006.

Sincerely,

Melissa Hastings  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Jan Kinser, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
BOARD OF REVIEW**

\_\_\_\_\_ ,

**Claimant,**

**v.**

**Action Number: 06-BOR-2229**

**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 August 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 August 17, 2006 on a timely appeal filed June 27, 2006.

**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 coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

**III. PARTICIPANTS:**

Claimant's Witnesses

\_\_\_\_\_ – Claimant

\_\_\_\_\_ – Claimant's Daughter

Department's Witness

Jan Kinser – Criminal Fraud Investigator

Presiding at the Hearing was Melissa Hastings, 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 Agency is correct in their proposal to establish and seek repayment of a Food Stamp Claim for the period January 2005 through March 2006.

#### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual ' 11.3, 11.4, 10.4 & 20.2.  
7 CFR ' 273.18 - Code of Federal Regulations.

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

##### **Department's Exhibits:**

DHS-1 DHHR Combined Application and Review with Rights and Responsibilities signed January 20, 2005  
DHS-2 Rent receipt in the amount of \$355 dated 12-31-04 signed by [REDACTED]  
DHS-3 Food Stamp 12 month Contact Review received March 1, 2006 initialed by claimant.  
DHS-4 Case Comments dated April 11, 2005 through April 3, 2006 on claimant's case.  
DHS-5 Food Stamp Claim Determination form ESFS5 dated June 15, 2006 for time period January 20, 2005 through March 31, 2006.  
DHS-6 Notification of FS Overissuance dated June 16, 2006  
DHS-7 WV Income Maintenance Manual sections 1.2, 1.4, and 20.2

##### **Claimant's Exhibits**

C-1 Rent receipt dated February 1, 2005 in the amount of \$355 signed by [REDACTED]

#### **VII. FINDINGS OF FACT:**

- 1) The Claimant was notified via a Notification of FS (Food Stamp) Overissuance (DHS-6) that the Department was going to establish and seek repayment of a Food Stamp Claim in the amount of \$1307 for the period January 2005 through March 2006.
- 2) The Department presented evidence to indicate that the overissuance of Food Stamp benefits occurred because at the time of her application for Food Stamps on January 20, 2005 the claimant presented a rent deposit receipt dated December 30, 2004 in the amount of \$355 (DHS2). This rental amount was utilized in determining claimant's Food Stamp eligibility for January 2005 through March 2006. On February 21, 2006 claimant was mailed a Food Stamp 12 month contact review (DHS3). She completed the form and returned it to the department on March 1, 2006. On page two of the form

Claimant indicated that her rent was \$300 and was paid \$58 self and \$242 HUD. This change in rent resulted in the claimant's Food Stamps being decreased and a referral was sent to the Repayment Unit for evaluation. A claim determination was calculated for the time period January 2005 through March 2006 in the amount of \$1307 for claimant's failure to report this change in rent obligation.

- 3) The claimant indicated through her testimony that HUD did not start paying her rent until she believed May 2005. Claimant produced one rent receipt dated February 1, 2005 signed by \_\_\_\_\_ in the amount of \$355 (C1).
- 4) Due to claimant's uncertainty as to the date that HUD started paying her rent, the Hearings Officer left the record open for 10 days for claimant to provide a copy of her rental agreement with HUD. This agreement was never provided by the claimant.
- 5) West Virginia Income Maintenance Manual section 1.2E states:  
The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility.
- 10) West Virginia Income Maintenance Manual ' 20.2 states:  
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.
- 11) West Virginia Income Maintenance Manual ' 20.2,C states:  
There are 2 types of UPV=s, client errors and agency errors.  
A UPV claim is established when:
  - An error by the Department resulted in the overissuance.
  - An unintentional error made by the client resulted in the overissuance

## **VIII. CONCLUSIONS OF LAW:**

- 1) Policy provides that when there has been an overissuance of Food Stamp benefits, corrective is taken by establishing either an Unintentional Program Violation (UPV) or an Intentional Program Violation (IPV) Claim.
- 2) There are two types of UPV's - an error by the Department, or an unintentional error made by the client.
- 3) Policy that governs the Food Stamp Program provides that the client is responsible for reporting information about their circumstances so the agency can make correct decisions on their cases.

- 4) The evidence reveals that the claimant provided proof of a rental obligation of \$355 at the time of her application in January 2005 and her Food Stamp eligibility was based on this rental obligation for the time period of January 2005 through March 2006.
- 5) The evidence also reveals that the claimant paid \$355 in rent for the month of February 2005 as well.
- 6) Claimant was given the opportunity to provide documentary evidence from HUD to ascertain the exact date that HUD rental assistance began but failed to do so.
- 7) There was no evidence presented by the department to indicate how a decision was made to start the claim in January 2005.
- 8) The Department has correctly proposed repayment as policy provides that claims be established when a client fails to provide accurate or complete information.

**IX. DECISION:**

After reviewing the information presented during the hearing and the applicable policy and regulations, the Hearings officer has determined that the department's decision to establish a claim for the client was appropriate. Evidence and testimony offered during this hearing however reveal that the months of the claim are incorrect. Claimant provided documentary evidence of a \$355 rental payment in February 2005 therefore the claim months of January 2005 and February 2005 are to be eliminated as months of overissuance. An adjusted claim for the months of March 2005 through March 2006 is to be established.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 29th Day of August, 2006.**

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**Melissa Hastings**  
**State Hearing Officer**