



State of West Virginia  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
Office of Inspector General  
Board of Review  
200 Davis Street  
Princeton, WV 24740

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

December 20, 2006

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 28, 2006. Your hearing request was based on the Department of Health and Human Resources' action to establish two (2) Food Stamp unintentional client error over-issuance claims separately totaling \$556.00 for the period of December 2005 through January 2006, and \$214.00 for the period of June 2006 through July 2006.

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: All AG's subject to the 130% FPL (Federal Poverty Level) income reporting requirements must report when the total gross earned and unearned income of the AG exceeds the AG's gross income limit by the 10<sup>th</sup> calendar day of the month following the month in which the change occurs. (WV Income Maintenance Manual Section 2.2B.1.a) When the 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 or Intentional Program Violation claim. (WV Income Maintenance Manual Section 20.2)

The information which was submitted at your hearing revealed that you failed to report as required when your household's income exceeded the 130% Federal Poverty Level in October 2005 and again in April 2006, causing food stamp over-issuances to occur on two separate occasions.

It is the decision of the State Hearings Officer to **uphold** the action of the Department to establish two client error Food Stamp over-issuance claims as follows: \$556.00 for period December 2005 through January 2006, and \$214.00 for the period of June 2006 through July 2006.

Sincerely,

Cheryl McKinney  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Kathy Carr, Mercer DHHR

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

\_\_\_\_\_,  
**Claimant,**

**v.**

**Action Number: 06-BOR-3075**

**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 November 28, 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 November 28, 2006 on a timely appeal filed September 5, 2006.

**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:**

\_\_\_\_\_, Claimant (participated telephonically)  
Kathy Carr, Repayment Investigator for Department

Presiding at the Hearing was Cheryl McKinney, 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 establish Food Stamp over-issuance claims in the amount of \$556.00 for the period of December 2005 through January 2006, and \$214.00 for the period of June 2006 through July 2006.

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

WV Income Maintenance Manual Section 20.1  
WV Income Maintenance Manual Section 20.2  
WV Income Maintenance Manual Section 2.2.B.1.a  
WV Income Maintenance Manual Section 20.2.C.b  
WV Income Maintenance Manual Section 20.2.H.1

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

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

D-1 Copy of BVRF Screen dated 8-29-06  
D-2 Copy of Case Comments dated 3-14-06  
D-3 Copy of Employer Income Verification (7 pages)  
D-4 Copy of Food Stamp Claim Determination dated 8-29-06  
D-5 Copy of Food Stamp Calculation Sheet for June and July 2006  
D-6 Copy of EFAD screen from Rapids dated 8-17-06  
D-7 Copy of Notification letter dated March 15, 2006 (2 pages)  
D-8 Department's Summary

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

None

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

- 1) The Department testified they received a referral from the Income Maintenance Unit that indicated a possible food stamp overpayment had occurred due to the claimant's failure to report increases in her income when it exceeded the 130% Federal Poverty

Level amount of \$1390.00 on two separate occasions. The periods in question are December 2005 through January 2006 and June 2006 through July 2006. (D-8)

- 2) The Claimant came into the [REDACTED] County DHHR office and applied for food stamps on July 15, 2005 reporting a one (1) person household. She reported she last worked at the [REDACTED] County Board of Education on June 7, 2005 and the only income at that time was spousal support and child support. The case was classified as a “simplified reporting” case, which required the Claimant to report increases in total household income when it exceeded 130% of the Federal Poverty Level, by the 10<sup>th</sup> calendar day of the month following the increase in income. Claimant returned on August 23, 2005 and added her son to the food stamp case stating the only income he had was from odd jobs. (D-8)
- 3) On August 29, 2006, the Department obtained verification from the [REDACTED] County Board of Education which verified claimant’s gross household income for October 2005 as \$1539.00, which exceeded the 130% Federal Poverty Level amount of \$1390.00 for two people. The Department testified they determined the claimant was ineligible for food stamps in December 2005 and January 2006 for this reason. The food stamp case closed in January 2006 for failure to complete a re-determination interview. The Department established a food stamp unintentional client error claim in the amount of \$556.00 for the period of December 2005 through January 2006. (D-3)
- 4) The Claimant came into the office again on March 14, 2006 and applied for food stamps. She reported a two-person household and verified \$962.92 gross wages from the [REDACTED] County Board of Education, as well as spousal support of \$100.00 per month. The food stamp case was again approved as a “simplified reporting” case. (D-2)(D-7)
- 5) The Department verified the claimant’s gross household income as \$2261.00 for April 2006, which exceeded the 130% Federal Poverty Level of \$1390.00 for a two-person household. The Claimant failed to report this increase by May 11, 2006. The Department testified made the Claimant ineligible effective June 2006. The Department established a food stamp unintentional client error claim in the amount of \$214.00 for the period of June 2006 through July 2006.(D-3) (D-1) (D-4) (D-6)
- 6) The Claimant testified during the hearing that she does not dispute any of the information, evidence, or testimony presented by the Department during the hearing. She indicated the information appears to be accurate. She stated the Department took too long to identify the error and establish a claim against her household.
- 7) WV Income Maintenance Manual Section 20.1 states in relevant part:

The Department is responsible for accurately determining the client's eligibility for Food Stamps, cash assistance (AFDC/U, TANF, and WV WORKS) and Medicaid. When it is discovered that excess benefits have been issued, corrective action must be taken.

- 8) WV Income Maintenance Manual Section 20.2 states, in relevant part:

When an AG 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 coupon allotment received by the AG and the coupon allotment the AG was entitled to receive.

- 9) WV Income Maintenance Manual Section 2.2.B.1.a. states in relevant part:

Simplified Reporting AG's[sic]

All AG's[sic] subject to the 130% FPL income reporting requirements are certified for 6 months and must report when the total gross earned and unearned income of the AG and all other individuals who reside with the AG exceeds the AG's[sic] gross income limit. This must be reported no later than the 10<sup>th</sup> calendar day of the month following the month in which the change occurs.

- 10) WV Income Maintenance Manual Section 20.2.C.b states in relevant part:

Client Errors

When the client fails to provide accurate or complete information, the first month of the overissuance is the month the incorrect, incomplete or unreported information would have affected the benefit level considering notice and reporting requirements.

- 11) WV Income Maintenance Manual Section 20.2.H.1. states in relevant part:

Time Limits to Establish Claims

Claims should be established by the end of the quarter following the quarter of receipt of the referral. However there are no time limits pertaining to the length of time between discovery of a claim and establishment of the claim.

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

- 1) The Claimant was required to report by the 10<sup>th</sup> of the following month when her total household income increased to more than 130% of the Federal Poverty Level, or \$1390.00. The Claimant failed to report on two separate occasions when this occurred. The Department became aware of this information on August 29, 2006 when they received verification of Claimant's earnings from the [REDACTED] County Board of Education for the period of September 2005 through June 2006.
- 2) The Department is required by policy to establish claims for over-issuances of food stamps and there is no time limit between discovery of a claim and establishment of the claim.
- 3) The Department acted according to policy in its action to establish two unintentional client error food stamp over-issuance claims against the claimant. The Department properly and accurately determined an over-issuance claim for the period of December 2005 through January 2006 in the amount of \$556.00, and for the period of June 2006 through July 2006 in the amount of \$214.00.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department to establish the Food Stamp over-issuance claims in the amount of \$556.00 for the period of December 2005 through January 2006, and \$214.00 for the period of June 2006 through July 2006.

### **X. RIGHT OF APPEAL:**

See Attachment

### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 20th Day of December, 2006.**

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**Cheryl McKinney  
State Hearing Officer**