



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

December 14, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Dear Mr. \_\_\_\_\_ and Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 6, 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 the household's application for Food Stamp benefits in April 2005 and benefits were received until March 2006. According to the evidence provided by the agency, a mobile home valued between \$3000 and \$7920 was registered in Ms. \_\_\_\_\_'s name until March 17, 2006. The household was not living in the mobile home; therefore it was a countable asset for the Food Stamp Program. The allowable asset limit for the Food Stamp Program is \$2000 for your household. Evidence and testimony indicates at the time of the Food Stamp application, Ms. \_\_\_\_\_ believed that the mobile home had been transferred into her daughter's name when she transferred other property to her and was unaware that the deed was still in her name. As a result of this **unintentional** error the household received \$2341 in Food Stamp benefits for which they were not eligible during the period April 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 **unintentional** Food Stamp claim in the amount of \$2341 for the period April 2005 through March 2006.

Sincerely,

Melissa Hastings  
State Hearing Officer  
Member, State Board of Review

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

\_\_\_\_\_ and \_\_\_\_\_,

**Claimants,**

v.

**Action Number: 06-BOR-3139**

**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 December 6, 2006 for \_\_\_\_\_ and \_\_\_\_\_. 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 December 6, 2006 on a timely appeal filed October 13, 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

\_\_\_\_\_ – Co-Claimant

\_\_\_\_\_ – Co-Claimant

 – Legal Aid of WV Attorney

Department's Witness

Teresa Smith – Repayment 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 an unintentional Food Stamp Claim for the period April 2005 through March 2006.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual ' 1.2, 11.3, 11.4 & 20.2.  
7 CFR ' 273.18 - Code of Federal Regulations.

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

**Department's Exhibits:**

- DHS-1 Case Comments dated 04/22/05 through 04/11/06 consisting of 13 pages
- DHS-2a WV Income Maintenance Manual Section 1.2 Client Responsibility
- DHS-2b WV Income Maintenance Manual Section 11.3 Maximum Allowable Assets
- DHS-2c WV Income Maintenance Manual Section 11.4 List of Assets
- DHS-2d WV Income Maintenance Manual Section 20.2 Food Stamp Claims and Repayment Procedures
- DHS-3 Food Stamp Claim Determination form ESFS5 for time period April 2005 through March 2006.
- DHS-4 Notification of FS overissuance dated 07/12/06
- DHS-5 Division of Motor Vehicles certificate of title to a motor vehicle dated 06/22/98 with attached transfer of title dated 03/17/06.
- DHS-6 Hearing Summary dated 11/28/06

**Claimant's Exhibits**

None

**VII. FINDINGS OF FACT:**

- 1) Evidence and testimony provided by the department representative indicates that claimants applied for and received Food Stamp benefits totaling \$2341 during the time period April 2005 through March 2006. **(DHS3)**
- 2) Case comments dated 03/13/06 through 03/29/06 **(DHS1)** indicate claimant's Food Stamp case was undergoing reevaluation and a computer check of the Department of Motor Vehicles was completed. The computer check revealed that a mobile home was listed in [REDACTED]'s name. Ms. [REDACTED] advised the worker that the mobile home was occupied by her daughter and

her daughter paid no rent to her. Following the Food Stamp reevaluation, Ms. \_\_\_\_\_ transferred title of the mobile home to her daughter. **(DHS4)**

- 3) The claimant indicated through her testimony that until the reevaluation of her Food Stamp case was done, she was not aware that the title of the mobile home had not been transferred into her daughter's name. Following the sale of a portion of her homestead property in 2001, claimant paid off her home and the remaining property on which her home was located. At the time of the sale, her daughter was living in a mobile home located on this same property. Claimant's testimony indicates that she made arrangements with the bank at this same time to transfer the property into her daughter's name to avoid inheritance taxes.
- 4) The issue of ownership of the mobile home is questionable. Testimony of the claimant indicates that she applied for a loan at the bank at a later date. Claimant did not identify the nature of the loan. At that time the bank official advised her that the mobile home her daughter was living in was in foreclosure. Claimant's testimony indicates that her daughter and her daughter's husband purchased the mobile home and due to irregular employment could not meet the payments. Claimant reached an agreement with the bank to purchase the mobile home for \$3000. Evidence shows that the \_\_\_\_\_ released a lien on the mobile home in \_\_\_\_\_'s name on September 17, 2003. **(DHS5)** It appears from this evidence that the mobile home was not paid in full until September 2003 and could not have been transferred into the daughter's name until that time.
- 5) West Virginia Income Maintenance Manual section 1.2E **(DHS2a)** 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.
- 6) West Virginia Income Maintenance Manual ' 20.2 **(DHS2d)** 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.
- 7) West Virginia Income Maintenance Manual ' 20.2,C **(DHS2d)** 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
- 8) West Virginia Income Maintenance Manual§ 11.3 **(DHS2b)** states:  
The asset limit for Food Stamp Benefits is \$2000
- 9) West Virginia Income Maintenance Manual§ 11.4CC 3 **(DHS2c)** states:

Homestead property is the client's property on which he **lives** and which is **owned**, or is being purchased by him.

Real property other than homestead property, which is producing an annual income consistent with its CMV, is excluded as an asset. The property produces income consistent with its CMV when the earnings equal those received by others in the same geographic area, for property of like value.

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

- 1) West Virginia Income Maintenance Manual section 20.2 indicates that when there has been an overissuance of Food Stamp benefits, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or an Intentional Program Violation (IPV) Claim. There are two types of Unintentional Program Violations, an error made by the Department or an error made by the client.
- 2) West Virginia Income Maintenance Manual section 1.2 indicates that the client is responsible for reporting information about their circumstances so the agency can make correct decisions on their cases.
- 3) West Virginia Income Maintenance Manual section 11.3 and 11.4 indicates that the asset limit for the Food Stamp Program for this household was \$2000. Evidence is clear that the mobile home in question was valued in excess of this asset limit and was titled in the name of [REDACTED] until March 17, 2006. It is also clear that this mobile home does not meet the definition of homestead property for the claimant nor does it meet the exclusion permitted for real property producing income consistent with fair market value.
- 4) Evidence is clear that the claimants in this case mistakenly believed that all real property in the name of [REDACTED] had been conveyed to her daughter prior to making application for Food Stamp benefits in April 2005; therefore any information that was provided to the agency that led to the overissuance of benefits would be considered an unintentional error on behalf of the claimants.
- 5) The Department has correctly proposed repayment as policy provides that claims be established when a client unintentionally fails to provide accurate or complete information.

### **IX. DECISION:**

It is the decision of the State Hearing officer to UPHOLD the Agency's proposal to establish and seek repayment of a \$2341 unintentional Food Stamp claim on the household for the time period April 2005 through March 2006.

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

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 14th Day of December, 2006.**

---

**Melissa Hastings  
State Hearing Officer**