



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

February 17, 2006

Dear Mrs. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 12, 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 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 Agency incorrectly calculated household income during your application/redetermination in February 2005. As a result, you were overissued \$1146 in Food Stamp benefits during the period March 1, 2005 through August 31, 2005.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish and seek collection of a Food Stamp claim in the amount of \$1146 for the period March 1, 2005 through August 31, 2005.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Marshall Daniels, SRI

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

_____,
Claimant,

v.

Action Number: 05-BOR-6908

**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 February 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 January 12, 2006, on a timely appeal filed November 7, 2005.

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
_____, Claimant's husband
Marshall Daniels, SRI, DHHR

Presiding at the Hearing was Thomas E. Arnett, 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.

V. APPLICABLE POLICY:

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

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- DHS-1 Benefit Recovery Referral (referral dated 8/2/05)
- DHS-2 WVIMM 10.4 (Policy on Income)
- DHS-3 Self-employment earnings / expenses
- DHS-4 Food Stamp allotment determination with Food Stamp income
- DHS-5 Food Stamp Claim Determination dated 10/24/05
- DHS-6 WVIMM 20.2 (Policy on Benefit Repayment)
- DHS-7 Notice of Decision dated 12/22/05
- DHS-8 Rights and Responsibilities signed by the Claimant on 2/4/05

VII. FINDINGS OF FACT:

- 1) On December 22, 2005, the Department notified the Claimant through a Notification of FS Overissuance (DHS-7), that she was issued \$1146 in Food Stamp benefits for which she was not eligible. This notice states that the overissuance occurred during the period 3/1/05 to 8/31/05 and was the result of the Agency incorrectly calculating Food Stamp income.
- 2) Testimony received from the Department reveals that a Benefit Recovery Referral (exhibit DHS-1) was forwarded to State Repayment Investigator on August 2, 2005. The referral indicates that Food Stamps issued during the period 3/1/05 to 8/1/05 were in error and the comments section states – Please see CMCC (case comments) dated 8/2/05. Previous Worker had put in net amount (income) on AFSE instead of gross (income) which gave client double expenses.

- 3) The Department presented evidence to indicate that the Claimant's household income was entered incorrectly by the Department Worker during the February 4, 2005 redetermination / application. According to exhibit DHS-3, the Claimant's gross annual income through self-employment was determined to be \$25,200 and income deductions (expenses incurred through self-employment) were determined to be \$6,681. When the Worker put the information into the computer, they erroneously placed the amount of income remaining (net income of \$18,519) where the gross income should have gone and placed \$6,681 in the income deduction section. As a result, the computer calculated the gross annual Food Stamp income to be \$11,838 (or \$986 per month) - the Claimant received credit for self-employment expenses twice. After all allowable deductions and disregards were applied, the Claimant was erroneously issued \$360 in Food Stamp benefits beginning March 2005.
- 4) The Department submitted exhibit DHS-4 to show that the Claimant's corrected Food Stamp income should have been determined by taking the gross annual income (\$25,200) less expenses (\$6,681), which leaves an annual "net" Food Stamp income of \$18,519. The annual net income, divided by 12 (months) equals a corrected monthly net Food Stamp income of \$1,543. After allowable deductions and disregards are applied, the corrected monthly Food Stamp benefit amount for March 1, 2005 should have been \$169 per month.
- 5) As a result of the Claimant's Food Stamp income being calculated incorrectly by the Agency, Exhibit DHS-5, Food Stamp Claim Determination, reveals the Claimant received an overissuance of \$1,146 in Food Stamp benefits during the period March 1, 2005 to August 31, 2005.
- 6) The Claimant's objection to the proposed repayment claim was based on the fact that the overpayment was caused by an Agency error.
- 7) Testimony presented by the Department indicated that while this claim is the result of an Unintentional Program Violation (UPV) based on an Agency error, policy provides that all overissuances must be repaid regardless of fault.
- 8) In addition to citing applicable policy, the Department submitted exhibit DHS-8 (DFA-RR1) - Rights and Responsibilities signed by the Claimant on February 4, 2005 and indicated that the Claimant's marked "Yes" on Section #7 of page 2, which states - I understand I will have to repay any Food Stamp benefits issued to me for which I was not eligible when the reason I received the incorrect benefits was because of an unintentional error made by me or by WVDHHR.
- 9) West Virginia Income Maintenance Manual ' 10.4, C:
This section contains policy relating income disregards and deductions and computation of and eligibility for Food Stamp benefits. It also states: To determine the coupon allotment, find the countable income and number (of persons) in the benefit group.

- 10) West Virginia Income Maintenance Manual ' 20.2:
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:
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) The Department incorrectly coded the Claimant's annual/monthly Food Stamp income amount resulting in an overissuance of \$1146 in Food Stamp benefits for the Month of March 2005 through August 2005. This is clearly an Unintentional Program Violation (UPV) based on an Agency error.
- 2) In accordance with Chapter 20 of the Income Maintenance Manual, the Department has correctly proposed repayment of the overissued Food Stamp benefits as policy makes no distinction between claims resulting from errors made by the Claimant or the Agency - The claim is the difference between the entitlement the assistance group received and the entitlement the assistance group should have received.
- 3) The Agency's proposal to establish and seek collection of a repayment Claim is therefore affirmed.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the Agency=s proposal to establish and seek repayment of a Food Stamp Claim against the Assistance Group in the amount of \$1146 for the period March 1, 2005 through August 31, 2005.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th Day of February, 2006.

**Thomas E. Arnett
State Hearing Officer**