



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street West
Charleston, WV 25313**

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 23, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 17, 2006. Your hearing request was based on the Department of Health and Human Resources' determination that, you owe a repayment of Food Stamp benefits.

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 Stamps is based on current policy and regulations. Some of these regulations state as follows:

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 entitlement of the AG and the coupon allotment the AG was entitled to receive. The procedures and policy by which Food Stamp claims are referred, established, collected and maintained follow. (West Virginia Income Maintenance Manual Section 20.2 FOOD STAMP CLAIMS AND REPAYMENT PROCEDURES).

The information submitted at your hearing revealed: You were over issued Food Stamp benefits in the amount of \$792.00 for the period covering June 1, 2005 through August 31, 2005. You did not report the start of Social Security Disability Benefits in a timely manner, or that your son had been out of the home since April 2005.

It is the decision of the State Hearings Officer to UPHOLD the PROPOSAL of the Department to seek a repayment of the over issued Food Stamp benefits.

Sincerely,

Ray B. Woods, Jr., M.L.S.
State Hearing Officer
Member, State Board of Review

cc: State Board of Review
Mrs. Danita Bragg, Repayment Investigator

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

_____,
Claimant,

v.

Action Number: 05-BOR-7214

**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 March 23, 2006 for Mr. _____. 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 originally scheduled for February 3, 2006 on a timely appeal filed January 3, 2006. The State Hearing Officer was ill and rescheduled the hearing. The fair hearing finally convened on March 17, 2006.

It should be noted here that the Claimant's Food Stamp benefits were closed effective September 2005. A pre-hearing conference was held between the parties prior to the hearing. Mr. _____ did not have an attorney representing him in this particular matter

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

_____, Son
Danita Bragg, Repayment Investigator – Office of Inspector General

Presiding at the Hearing was, Ray B. Woods, Jr., M.L.S., State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is: Does Mr. _____ owe a repayment of over issued Food Stamp benefits?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual (WVIMM) Section 20.2 FOOD STAMP CLAIMS AND REPAYMENT PROCEDURES

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 ES-FS-5 Food Stamp Claim Determination Form
- D-2 ES-FS-5a Food Stamp Calculation Sheet
- D-3 IQFS Screen Prints from the RAPIDS Computer System
- D-4 EFAD Screen prints from the RAPIDS Computer System
- D-5 Case Comments
- D-6 Rights and Responsibilities dated 08/03/04
- D-7 WVIMM Chapter 2.2B The Case Maintenance Process – Reporting Requirements for Food Stamp Cases & WVIMM Chapter 2.17 Reporting Requirements for WV Works Cases
- D-8 WVIMM Chapter 20.2 Food Stamp Claims and Repayment Procedures
- D-9 Related Hearing Documents

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) WVIMM Section 20.2 FOOD STAMP CLAIMS AND REPAYMENT PROCEDURES states:

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 entitlement of the AG and the coupon allotment the AG was entitled to receive. The procedures and policy by which Food Stamp claims are referred, established, collected and maintained follow.

NOTE: Referrals are made for all over issuances, regardless of the dollar amount. Claims are not written for under \$50 unless there is a liable debtor receiving Food Stamps at the time the claim is written, the error is discovered as the result of a QA review, or it is an IPV claim. In these three situations claims under \$50 are written and collected. IPV claims must be established regardless of the total amount or participation status of the liable debtor(s).

2) The Claims & Collection Unit of the Office of the Inspector General received a repayment referral on this case August 9, 2005, from the [REDACTED] County DHHR for over issuance of Food Stamp benefits. Mr. _____ did not report his son was out of household since the middle of April 2005, and Mr. _____ was receiving Social Security Disability Benefits since the middle of May 2005. Mr. _____ was receiving TANF benefits through June 30, 2005. He was required to report all of the above changes and did not do so.

3) Agency Form ES-FS-5 Food Stamp Claim Determination Form (DHS-1). This form shows the calculation of the over issuance. The over issuance is determined by comparing the actual amount of Food Stamps issued to the household with the correct amount of Food Stamps. These amounts are shown on the right and left-hand columns of the form respectively. The corrected amounts are determined by recalculating Food Stamp allotments with the corrected number of household members and corrected income for the household. The total overpayment of \$792.00 for this claim period is shown at the bottom of the form, inside the block marked "Loss to Program."

4) Agency Form ES-FS-5a, Food Stamp Calculation Sheet (DHS-2). This form shows an itemized breakdown of the over issuance shown in DHS-1. The "Corrected" side of the form corresponds with the "Corrected" side of the ES-FS-5 (DHS-1). The "Actual" Side is shown in the EFAD Screen prints from the RAPIDS computer system (DHS-4).

5) IQFS Screen Prints from the RAPIDS Computer System (DHS-3). This screen print shows the amount of Food Stamps issued to Mr. _____'s household during the claim month. The amount under the heading "Issued Amt" corresponds with the actual coupon allotments in DHS-1 and DHS-2.

6) EFAD Screen Prints from the RAPIDS Computer System (DHS-4). These screen prints show the calculation of the Food Stamp allotment at the time they were issued. They do not include the incorrect eligibility factor of amount of number of household members and unearned income in the household.

7) Case Comments (DHS-5) - Mr. _____ reported during his review on August 9, 2005, that he moved during the middle of April 2005, and his son stayed at their former residence. Mr. _____ started receiving Social Security Disability May 2005. He did not report these changes within 10 days which is a necessary requirement as this was a WV Works case. In the absence of the case worker who wrote the case comments, the "Hearsay Rule" was explained to Mr. _____. Mr. _____ did not object to any of the Department's exhibits.

8) Rights and Responsibilities (DFA-RR1) (DHS-6). Signed and dated August 3, 2004 by Mr. _____. Under the Food Stamp Program Item (7) it 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 WV DHHR. Item (33) states: I agree to let the local Department of Health and Human Resources

office know within 10 days if: Note: Does not apply to Food Stamp household with a working adult. (A) We move and/or change our address, name or telephone number, (B) Anyone obtains/loses employment; (C) There are changes in my household's amount of unearned income or gross monthly income. (D) There are changes in the source of employment and hours worked; (E) Anyone moves into/out of my household. For WV Works, children who leave and who will be gone more than 30 days must be reported in 5 days. (F) Any individual in my home starts, finishes, or drops out of school or job training; (G) There are changes in my household's assets, including receiving, selling, purchasing or losing a vehicle; (H) Anyone in my household receives a lump sum payments because this may affect our eligibility for continuing benefits and I may be expected to live on this income for a specific period of time.

9) Mr. _____ disputed the fact that the Department was not aware of the change in his household, and the receipt of unearned income. Mr. _____ referred to letters he received from the Department dated April 27, 2005, May 2, 2005 and May 31, 2005, respectively (DHS-9).

The April 27, 2005 letter referred to Mr. _____'s Food Stamp Review and continued eligibility effective June 1, 2005. The May 2, 2005 letter was issued to all Food Stamp recipients and explained that gross income should only be reported if it increase above a specific level. The May 31, 2005 letter informed Mr. [REDACTED] that his West Virginia Works Benefits would stop effective June 2005. The May 27, 2005 Case Recording (DHS-5), states that Mr. _____ failed to keep his appointment to review his continued eligibility.

10) Mr. _____ did not provide any documentation to support his claim that the Department was aware of his household composition or the receipt of unearned income. Mr. _____ owes a repayment of over issued Food Stamp benefits.

VIII. CONCLUSIONS OF LAW:

1) WVIMM Section 20.2 FOOD STAMP CLAIMS AND REPAYMENT PROCEDURES states:

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 entitlement of the AG and the coupon allotment the AG was entitled to receive. The procedures and policy by which Food Stamp claims are referred, established, collected and maintained follow.

NOTE: Referrals are made for all over issuances, regardless of the dollar amount. Claims are not written for under \$50 unless there is a liable debtor receiving Food Stamps at the time the claim is written, the error is discovered as the result of a QA review, or it is an IPV claim. In these three situations claims under \$50 are written and collected. IPV claims must be established regardless of the total amount or participation status of the liable debtor(s).

2) Mr. _____ did not provide any documentation to support his claim that the Department was aware of his household composition or the receipt of unearned income. Mr. _____ owes a repayment of over issued Food Stamp benefits. Mr. _____ owes a

repayment of over issued Food Stamp benefits in the amount of \$792.00. The period of over issuance occurred from June 1, 2005 through August 31, 2005.

IX. DECISION:

It is the decision of this State Hearing Officer to UPHOLD the Department's PROPOSAL in this particular matter.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 23rd Day of March, 2006.

Ray B. Woods, Jr., M.L.S.
State Hearing Officer