



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 25, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 10, 2007. Your hearing request was based on the Department of Health and Human Resources' decision to establish an Agency error 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 as follows: When an assistance group has been issued more Food Stamps than it was entitled to receive, corrective action is taken by establishing a claim. Collection action is initiated against the Assistance Group which received the overpayment. All claims, whether established as a result of an error on the part of the Agency or the household, are subject to recoupment. (West Virginia Income Maintenance Manual ' 10.4, C & 20.2).

The information, which was submitted at your hearing, revealed that your household received an over issuance of Food Stamps during the months of May 2006 and April 2007.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to establish and collect an Agency Error Food Stamp claim however; the amount of the claim **is to be reduced by \$109.**

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

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

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

_____,
Claimant,

Action Number: 07-BOR-1098

**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 May 10, 2007 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 May 10, 2007 on a timely appeal, filed April 9, 2007.

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
_____, claimant's grandson

Karen Crossland, DHHR Repayment Investigator

Presiding at the Hearing was Sharon K. Yoho, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Agency was correct in their actions to establish and collect an overpayment of Food Stamps.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy §20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp Claim Determination
- D-2 West Virginia Income Maintenance Manual Policy § 20.1 & 20.2
- D-3 Case Record information for Grandson
- D-4 Notification letter dated March 28, 2007

VII. FINDINGS OF FACT:

- 1) The claimant has been an active Food Stamp participant since 1997.
- 2) Six years ago, the Claimant's grandson moved into her home with her. She reported to the Department that he was a household member and the caseworker added him into her case. He was not added to the Food Stamp benefits but was added as a household member.
- 3) When the grandson's personal information was transferred over from a previous Food Stamp case of his own, the computer also transferred over a rent amount from his case. This transferred rent amount of \$375.40 was added to the claimant's actual rent amount of \$140. This caused the system to compute a rent deduction based on \$515.40 rent instead of the \$140. rent that the claimant was actually paying.
- 4) The excessive rent deduction was given to this claimant for almost 6 years. The actual overpayment of Food Stamps for this claimant was in excess of \$7,000. The Claims and Collection unit can only go back one year when computing a Food Stamp claim that resulted from an Agency error and therefore; the claim amount was computed as much less than the actual overpayment.
- 5) The Claims and Collection unit calculated an overpayment for 13 months in the amount of \$1442.

- 6) The Repayment Investigator issued a notice to the claimant of this overpayment on March 28, 2007. The claimant requested a hearing on April 9, 2007.
- 7) The claimant and her grandson do not believe she should be obligated to pay back benefits received due to an error made by the Department.

8) **WV Income Maintenance Manual § 20.2**

Collection action is initiated against the assistance group which received the over issuance. A claim is established when: An unintentional error made by the client or the agency results in the over issuance.

Collections may be made on only one claim at a time. Claims are collected in the following priority order:

- Intentional Program Violation
- Unintentional Program Violation, Client error
- Unintentional Program Violation, Agency error

9) **WV Income Maintenance Manual §20.2**

NOTE: An agency error is only established retroactively for the one-year period preceding the date of the claim.

VIII. CONCLUSIONS OF LAW:

- 1) Policy in 20.2 states that collection action is initiated against the assistance group which received the over issuance. There is no exception noted in policy which would exclude Agency error claims from the collection process.
- 2) Testimony and evidence support that the claimant did receive an over issuance of Food Stamps due to excessive shelter deductions.
- 3) Policy 20.2 identifies an Agency Error claim as a claim that is collected against the assistance group who received the over issuance. Policy does not offer any relief of a debt when the overpayment was the fault of the Department.
- 4) Policy 20.2 notes that an agency error is only established retroactively for the one-year period preceding the date of the claim. This claim has been established to include 13 months retroactively instead of the one-year provided for in policy. The claim month of April 2006 must be excluded in the claim period and the claim amount reduced by \$109.

IX. DECISION:

I find that the claimant was over issued Food Stamp benefits. I rule to **uphold** the agency in its actions to establish an Agency Error Food Stamp claim and to collect the overpayment from the claimant. I further rule that the claim amount be reduced from \$1442 to \$1333.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 25th Day of May 2007.

Sharon K. Yoho
State Hearing Officer