



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Office of Inspector General

Board of Review

PO Box 29

Grafton, WV 26354

July 6, 2007

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 22, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to establish a Food Stamp claim and seek collection of the claim.

In arriving at a decision, the State Hearing 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: To determine the coupon allotment, find the countable income and number in the benefit group. 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 recoupment. (West Virginia Income Maintenance Manual § 10.4, C & § 20.2).

The information which was submitted at the hearing revealed that you received an overissuance of Food Stamps during the period September 2006 – February 2007. This resulted because of household income received weekly being erroneously considered as received on a bi-weekly basis.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish a Food Stamp claim for the period September 2006 – February 2007 and initiate collection.

Sincerely,

Ron Anglin
State Hearing Examiner
Member, State Board of Review

cc: Chairman, Board of Review
DHHR, Leonard Madia, Repayment Investigator

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

_____,
Defendant,

v.

Action Number: 07-BOR-1407

**West Virginia Department of Health and Human Resources,
Respondent.**

I. INTRODUCTION:

This is a report of the State Hearing Examiner resulting from a fair hearing concluded on July 5, 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 June 27, 2007 on a timely appeal filed May 11, 2007.

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:

_____, defendant

_____, aunt to defendant

Leonard Madia, Repayment Investigator

Presiding at the hearing was Ron Anglin, State Hearing Examiner and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED

The question to be decided is whether the Agency was correct in their proposal to establish a Food Stamp claim and pursue repayment of that claim.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 2.2, 9.1, 10.4 & 20.2.
7 CFR § 273.18 - Code of Federal Regulations.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

A-1- Food Stamp Claim Determination, 9/06- 2/07
A-2- WVIMM 20.2
A-3- Pages 2 and 8 of 8/29/06 application document

VII. FINDINGS OF FACT:

- 1) May 11, 2007, a hearing was requested by the defendant in response to a notification concerning benefit repayment. This hearing was convened June 22, 2007.
- 2) During the hearing Exhibits as noted in Section VI above were submitted.
- 3) Testimony was heard from the individuals listed in Section III above. All persons giving testimony were placed under oath.
- 4) Exhibit A-1 reveals that an overissuance of \$2089 occurred during the period September 2006 through February 2007.
- 5) The agency presented testimony that the defendant applied for benefits 8/29/06. She reported that her spouse was working and correctly reported his weekly earnings. The agency erred in the entry made into the benefit issuance system. Earnings were entered as bi-weekly rather than weekly which resulted in an overissuance of benefits which was discovered at a 3/17/07 reapplication.
- 6) The defendant does not dispute the facts of the case. She feels she is being penalized because of an agency error and that is unfair.
- 7) West Virginia Income Maintenance Manual § 10.4, C, contains policy relating to 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.
- 8) West Virginia Income Maintenance Manual § 20.2 states in part: 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.

9) West Virginia Income Maintenance Manual § 20.2, C reads in part: There are 2 types of Unintentional Program Violations, client errors and agency errors. A claim is established when: An error by the Department resulted in the overissuance.

VIII. CONCLUSIONS OF LAW:

1) Policy reveals that when an 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. Evidence reveals that an overissuance occurred during the period September 2006- February 2007.

2) A Food Stamp claim is the difference between the entitlement the assistance group received and the entitlement the assistance group should have received. Evidence reveals an overissuance of \$2089 occurred during the period noted.

3) A claim is established when an error by either the applicant/recipient or agency results in the overissuance of benefits. Evidence reveals that the overissuance of \$2089 was due to an error on the part of the agency in failing to enter correctly enter weekly earnings at the August 29, 2006 Food Stamp application.

4) All claims are subject to repayment, no distinction is made between errors made by the agency or the household. While the Department is clearly at fault the established claim is still subject to recoupment.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the Agency's action in establishing a Food Stamp claim for the period in question and seeking collection of this claim.

X. RIGHT OF APPEAL

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 5th Day of July 2007.

Ron Anglin
State Hearing Examiner