



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

December 7, 2007

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 14, 2007. Your hearing request was based on the Department of Health and Human Resources' proposal to establish a Food Stamp repayment claim against your household.

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 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 Chapter 20.2).

Information submitted at your hearing reveals that your countable assets exceeded the allowable limit to receive Food Stamps for the period of May 2005 through December 2006. Therefore, a repayment claim should be established.

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 \$1,617.

Sincerely,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

Pc: Erika H. Young, Chairman, Board of Review  
Leonard Madia, Repayment Investigator, DHHR

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 07-BOR-1777**

**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 7, 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 November 14, 2007 on a timely appeal filed July 17, 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:**

\_\_\_\_\_, Claimant  
Leonard Madia, Repayment Investigator, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 its proposal to establish and seek repayment of a Food Stamp claim.

#### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Sections 1.2, 11.3, 11.4, 11.5 and 20.2

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

##### **Department's Exhibits:**

- D-1 Food Stamp Claim Determination forms
- D-2 West Virginia Income Maintenance Manual Section 1.2 E
- D-3 West Virginia Income Maintenance Manual Section 20.2
- D-4 Rights and Responsibilities for Food Stamp Program signed by Claimant on May 5, 2006

##### **Claimant's Exhibits:**

- C-1 Income/Asset Check Off Sheet
- C-2 Administrative Disqualification Hearing Decision dated June 28, 2007

#### **VII. FINDINGS OF FACT:**

- 1) The Claimant completed a Food Stamp application on May 27, 2005. At that time, he failed to report that his name was listed on his mother's savings account, which had a balance of \$10,050. The Repayment Investigator testified that the account was accessible to the Claimant, therefore the Claimant's assets were excessive for the Food Stamp Program. The Repayment Investigator contended that the Claimant also failed to report the account during subsequent applications and redeterminations. The Investigator provided a copy of Rights and Responsibilities signed by the Claimant on May 5, 2006 (D-4). Under the section concerning the Food Stamp Program, the Claimant checked "yes" to indicate that he understood he would have to repay Food Stamp benefits issued to him if he received incorrect benefits because of an unintentional error made by either himself or DHHR.
- 2) As a result of the error, the Claimant received an over issuance of \$1,617 in Food Stamps for the period of May 2005 through December 2006 as calculated on Food Stamp Claim Determination forms (D-1) submitted by the Repayment Investigator. The claim was submitted as an unintentional client error.
- 3) The Claimant testified that the repayment should not be based on a client error. He testified that although his name is on his mother's savings account, the money belongs to her and is not his asset. He stated that his mother is over 80 years old and that he deposits her money in the account. He provided a copy of the Income/Asset Screening Check Off Sheet (C-1) used by the ██████████ County DHHR which states, "Does anyone in your household own or is anyone buying any of these assets?" The Claimant testified that he feels he answered the questions asked by the interviewer truthfully since his mother does not reside in his home and he does not

consider himself as owner of the money. He provided an Administrative Disqualification Hearing decision dated June 28, 2007 (C-2) in which it was determined that he did not commit an Intentional Program Violation in regard to the issue. The Claimant agreed that he has a legal right to use money in the account, although he would consider such an act as stealing from his mother. The Claimant maintained that he should not be held responsible for something that was not his fault. He stated that he would not have used the Food Stamps if he would have known he would be required to repay them.

- 4) West Virginia Income Maintenance Manual Chapter 11.4 states that a savings account is considered an asset for the Food Stamp Program.
- 5) West Virginia Income Maintenance Manual Chapter 11.3 states that the asset limit for Food Stamps is \$2,000, or \$3,000 if at least one member of the benefit group is 60 or over or disabled.
- 6) West Virginia Income Maintenance Manual Chapter 11.5 A, 3, b, states:

If all of the joint owners are not in the AG, the asset owned jointly is considered available in its entirety to the AG, unless it can be demonstrated that such assets are inaccessible. If the AG can demonstrate that it has access to only a portion of the asset, the value of that portion is an asset.

- 7) West Virginia Income Maintenance Manual Chapter 20.2 states 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. The claim is the difference between the entitlement the assistance group received and the entitlement the assistance group should have received [emphasis added].
- 8) West Virginia Income Maintenance Manual Chapter 20.2, C (D-3) states that there are two types of Unintentional Program Violations- client errors and agency errors. A UPV is established when:
  - An error by the Department resulted in the over issuance.
  - An unintentional error made by the client resulted in the over issuance

This section states that Agency errors include failure to take prompt action and computation errors. Client errors occur when the client fails to provide accurate or complete information.

- 9) West Virginia Income Maintenance Manual Chapter 1.2, E states that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.

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

- 1) Policy regarding benefit repayment states that an unintentional client error occurs when the client fails to provide accurate or complete information so that his eligibility for Food Stamps can be determined.
- 2) The Claimant's contention that he did not consider his elderly mother's savings account as his asset is reasonable, however, he did not dispute that the account is legally accessible to him as a joint owner. Based on the Claimant's testimony, it appears that he did not intentionally fail to report the savings account, however, the information he provided was incomplete and resulted in an incorrect eligibility determination. Therefore, an unintentional client error occurred.
- 3) The Department's proposal to establish and seek collection of a repayment claim is affirmed.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the Agency's proposal to establish and seek collection of a Food Stamp repayment claim of \$1,617 based on an Unintentional Program Violation- client error.

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

See Attachment

### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 7<sup>th</sup> Day of December, 2007.**

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**Pamela L. Hinzman**  
**State Hearing Officer**