



**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

December 20, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 4, 2007. Your hearing request was based on the Department of Health and Human Resources' decision to establish an Agency Unintentional 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 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 February 2007 thru July 2007 due to an agency error.

It is the decision of the State Hearing Officer to uphold the action of the Department to establish the Food Stamp claim of \$2146. and to seek repayment of the claim from your household.

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,

v.

Action Number: 07-BOR-2319

**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 4, 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 December 4, 2007 on a timely appeal, filed October 18, 2007.

It should be noted here that repayment and recoupment have been postponed pending a hearing decision.

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
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 Department is correct in their actions to establish an Agency Error Food Stamp claim and to collect the overpayment of Food Stamps from the claimant.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy §10.2, 10.4, 10 Appendix A, and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp Claim Determination and calculations
- D-2 Verification of earnings dated July 27, 2007
- D-3 West Virginia Income Maintenance Manual Policy § 20.2
- D-4 Notification of FS Over issuance dated August 15, 2007

VII. FINDINGS OF FACT:

- 1) The claimant applied and was approved for Food Stamp benefits in February 2007. She reported to the caseworker that she was earning \$400. per week. The worker entered \$400. in the computer system as monthly income. \$147. in Food Stamp benefits were issued to the claimant for February and Food Stamp entitlement was set up for \$408. monthly for months March thru July.
- 2) A recoupment was taken from the Food Stamp entitlement April thru July 2007 and credited toward a previous repayment claim.
- 3) In July 2007, a Food Stamp review was completed and the Department realized that the weekly income had been entered as monthly income in error and that the claimant's actual monthly income was in excess of the income limits for the Food Stamp program starting in the month of March. The claimant was ineligible for March thru July. The February Food Stamps were over-issued in the amount of \$41.
- 4) The caseworker referred the case to the Claims and Collection unit who established a Food Stamp overpayment claim of \$2146 for the months of February 2007 thru July 2007.

- 5) The Repayment Investigator issued a notice of this claim on August 15, 2007. This notice indicated that the error was an AGENCY ERROR claim in the amount of \$2146 for incorrect wages/salaries.
- 6) Income limits for a household of three for the Food Stamp program is \$1431. monthly. The claimant's weekly income of \$400.multipled by 4.3 converts to a monthly income of \$1720.
- 7) The claimant testified that she believed that since the error was made by the Department and that she was not at fault, that she should not be required to repay the over issuance of benefits.
- 8) **WV Income Maintenance Manual § 10.2:**
Income is defined as any and all monies received from any source.
The determination of countable income is necessary, because it is, generally, the countable income, which is tested against maximum income limits.
- 9) **WV Income Maintenance Manual §10 Appendix A**
Income Limit 3 person household \$1431. Food Stamp Gross/Net Test
- 10) **WV Income Maintenance Manual §10.4:**
Conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows:
 - weekly amount multiplied by 4.3
- 11) **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

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in Chapter 10.4 that weekly income is to be converted to monthly income by multiplying by 4.3. If the caseworker had properly completed this procedure, this claimant would not have been eligible for Food Stamps for the months of March thru July and would have not been eligible for the full amount she received for February. Her monthly income exceeded the income limits set for a household of three as shown in Appendix A of Chapter 10.
- 2) Policy 20.2 identifies an Agency Unintentional Error claim as a claim that is collectable against the assistance group who received the over issuance.

IX. DECISION:

I find that the claimant's household was over issued Food Stamp benefits during the months of February 2007 thru July 2007 in the amount of \$2146. I rule to **uphold** the agency in its action to establish an Agency Error claim and to collect the overpayment from the claimant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 20th Day of December 2007.

**Sharon K. Yoho
State Hearing Officer**