



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 19, 2008

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 13, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to establish a Food Stamp repayment 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 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 ' 20.2).

The information submitted at your hearing reveals that the Agency incorrectly calculated household income at the time of application/redetermination in May 2008. As a result, you were overissued \$103 in Food Stamp benefits during the period May 5, 2008 through July 31, 2008.

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 repayment claim in the amount of \$103 for the period May 2008 through July 2008.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

Pc: Erika H. Young, Chairman, Board of Review
Teresa Smith, SRI

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

_____,
Claimant,

v.

Action Number: 08-BOR-2148

**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 November 19, 2008 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 13, 2008 on a timely appeal filed September 19, 2008.

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 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
Teresa Smith, SRI, DHHR

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether or not the Agency is correct in its proposal to establish and seek repayment of a Food Stamp repayment claim.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual ' 10.4 & 20.2.
7 CFR ' 273.18 - Code of Federal Regulations.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- DHS-1 Case Comments from Rapids [computer system] period 5/5/05 – 5/7/08
- DHS-2 Employment / Income information entered into Rapids
- DHS-3 Report on Food Stamp Error – dated August 29, 2008
- DHS-4 Rapids documentation, QC Review Potential Errors
- DHS-5 WVIMM, Chapter 10.4 (income), Chapter 20.1 (Benefit Repayment) & Chapter 20.2 (Food Stamp Claims and Repayment Procedures)
- DHS-6 Food Stamp Claim Determination (accompanied by income calculations)
- DHS-7 Notice of FS Overissuance dated 9/16/08

VII. FINDINGS OF FACT:

- 1) On or about September 16, 2008, the Claimant was notified of the Food Stamp overissuance. This notice states, in pertinent part:

We have determined that you were issued more Food Stamp benefits than you were eligible to receive during the period 5/5/08 to 7/31/08 because of incorrect income disregards/deductions.
- 2) The evidence reveals that the Claimant completed an application for Food Stamp benefits on May 5, 2008 and provided verification of income on May 7, 2008 (see exhibits DHS-1 and DHS-2).
- 3) Upon review by the Department's Quality Control (QC) Unit, exhibits DHS-3 and DHS-4 were generated. These documents indicate that when the household income was determined by the worker on May 7, 2008, a calculation error occurred resulting in more Food Stamps being issued than the household was entitled to receive. Exhibit DHS-6 includes the corrected income amount as well as the Food Stamp allotment and the resulting \$103 overissuance in Food Stamp benefits.

- 4) The Claimant neither disputed the corrected income calculation nor the overissued amount of Food Stamps reflected in exhibit DHS-6 for May, June and July 2008 but indicated she disagrees that she should be responsible to repay Food Stamp benefits when the Department made the error.
- 5) West Virginia Income Maintenance Manual ' 10.4, C:
This section contains policy relating 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.
- 6) West Virginia Income Maintenance Manual, Chapter 20.2:
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.
- 7) West Virginia Income Maintenance Manual ' 20.2,C:
There are 2 types of UPV=s, client errors and agency errors.
A UPV claim is established when:
 - An error by the Department resulted in the overissuance.
 - An unintentional error made by the client resulted in the overissuance

VIII. CONCLUSIONS OF LAW:

- 1) The Department incorrectly coded the household's monthly Food Stamp income amount in the RAPIDS computer system resulting in an overissuance of \$103 in Food Stamp benefits during the period May 2008 through July 2008. This is clearly an Unintentional Program Violation (UPV) based on an Agency error.
- 2) Pursuant to policy found in Chapter 20 of the West Virginia Income Maintenance Manual, the Department has correctly proposed repayment of the overissued Food Stamp benefits as policy makes no distinction between claims resulting from errors made by the Claimant or the Agency
 - The claim is the difference between the entitlement the assistance group received and the entitlement the assistance group should have received.
- 3) The Department's proposal to establish and seek collection of a repayment Claim is therefore affirmed.

IX. DECISION:

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 repayment claim in the amount of \$103 for the period May 5, 2008 through July 31, 2008.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 19th Day of November, 2008.

**Thomas E. Arnett
State Hearing Officer**