



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 468
Hamlin, WV 25523

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 25, 2008

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 6, 2008. 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 the amount of \$523.00.

A previous hearing on this matter established that the Department incorrectly calculated your household income for the months of October 2007 through February 2008 by not counting persons and income that should have been considered. The Department originally established a Food Stamp Repayment Claim in the amount of \$1114.00. This claim was reversed as a result of the prior hearing because I was unable to determine if an overpayment occurred due to inaccurate information. The Department recalculated the claim in the amount of \$523.00. The issue for this hearing will be the whether the Department correctly established a Food Stamp Repayment Claim in the amount of \$523.00.

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. Claims are not written for under \$50 unless there is a liable debtor receiving Food Stamps at the time the claim is written, the error is discovered as the result of a QA review, or it is an IPV claim. (West Virginia Income Maintenance Manual Chapter 20.2).

Information submitted at your hearing reveals that the Department correctly determined that an overpayment occurred for the period in question; however, incorrectly calculated the "corrected food stamp entitlement" amounts, thus changing the amount of your overpayment to \$512.00.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish a food stamp repayment claim; however the amount of the Claim shall be \$512.00.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Brian Shreve, Boone DHHR

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

_____,

Claimant,

v.

Action Number: 08-BOR-2315

**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 6, 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 6, 2008 on a timely appeal filed October 14, 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 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

Brian Shreve, Repayment Investigator, Department Representative

Presiding at the hearing was Cheryl Henson, 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 in the amount of \$523.00.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 2.2.B.1.a, and 20.2
West Virginia Income Maintenance Manual Section 9.1.A.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Copy of Hearing Decision dated September 23, 2008 for Case #08-BOR-1753
- D-2 Rapids Screen showing Repayment Claims for the Claimant
- D-3 Rapids Screen showing Benefit Recovery Referral
- D-4 Food Stamp Claim Determination dated October 8, 2008
- D-5 Notification letter dated October 9, 2008

Claimant's Exhibits:

- C-1 Copy of Income verification for [REDACTED]

VII. FINDINGS OF FACT:

- 1) The Claimant applied for food stamps (SNAP) for his family on October 2, 2007. The Department approved the Claimant's application for benefits as a "simplified reporting" case for a four (4) person household which included the Claimant, his wife, and their two thirteen (13) year old daughters. The Department did not include the Claimant's other daughter, age eighteen (18), nor her husband and child, who also were living in the home with the Claimant. The Department counted only the Claimant's earned income from his employment in determining eligibility.
- 2) The Department did not review their own case comments from July 2007 (D-1) which document that the Claimant's other daughter and her family were living in his home. The comments also record that the Claimant's daughter is under twenty two (22) years old and cannot be a separate Food Stamp AG, even though she is married and has a child. The Department reports they became aware of their error in household composition in February 2008 while processing an application for Non-Emergency Medical Transportation, and established an Agency Error Food Stamp Repayment Claim against this household in the amount of \$1114.00. This covered the period from October 2, 2007 through February 2008.
- 3) A hearing was held on August 23, 2008 on the original claim of \$1114.00 and the Claim was reversed due to inaccurate calculations (D-1). The Department recalculated the Claim and established a new Claim in the amount of \$523.00 for the same time period. The Department

sent the Claimant a notification letter (D-5) which included the following pertinent information:

We have determined that you were issued more SNAP benefits than you were eligible to receive during the period 10/02/07 to 2/29/08, because of BUDGET GROUP IN ERROR.

Federal law requires that a claim be established against any household that has received more benefits than it is entitled to receive. Therefore, a(n) AGENCY ERROR claim for \$523.00 has been established against your household.

- 4) The Department contends that the eighteen year old daughter and her family should have been included in the benefits which would have changed the household composition from a four (4) person household to a seven (7) person household. The son-in-law's earnings from [REDACTED] were not counted originally, and in calculating the Repayment Claim the Department worker determined his gross earned income to be \$1339.46 monthly. The Department counted \$1400.00 monthly as the Claimant's income from working, for a total of \$2739.46 earned income. This was the total household income counted for October and November 2007. In November 2007, the Claimant's wife began receiving \$125.20 SSI and this amount was added as countable income to the \$2739.46 earned income from December 2007 through February 2008.
- 5) WV Income Maintenance Manual Section 10.4 states in pertinent part:

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

A. BUDGETING METHOD

Eligibility is determined and benefits are issued on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. The following information applies to earned and unearned income.

2. Consideration of Past Income

The Worker must follow the steps below for each old income source:

Step 1: Determine the amount of income received by all persons in the Income Group in the 30 calendar days prior to the application/redetermination date. The appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of application/redetermination. The income for this time period is the minimum amount of income which must be considered.

Step 2: Determine if the income from the previous 30 days is reasonably expected to continue into the new certification period. If it is expected to continue, determine if the amount is reasonably expected to be more or less the same. If so, the

income source is used for the new certification period and treated according to item 4 below.

4. How To Use Past And Future Income

Once the Worker determines all of the income sources which are to be considered for use, the amount of monthly income is determined as follows, based on the frequency of receipt and whether the amount is stable or fluctuates.

When the Frequency of Receipt is: More Often than Monthly – and the amount is Stable – Convert Amount/period to Monthly Amount

Conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows:

Bi- Weekly amount (every 2 weeks) x 2.15

B. INCOME DISREGARDS AND DEDUCTIONS

Certain items may be allowed as income deductions to arrive at an AG's countable income.

1. Earned Income Disregard

Twenty percent (20%) of gross non-excluded earned income, including gross profit from self-employment, is disregarded.

2. Standard Deduction

A Standard Deduction is applied to the total non-excluded income counted for the AG, after application of the Earned Income Disregard. The amount of the Standard Deduction is found in Appendix B.

7. Shelter/Utility Deduction

After all exclusions, disregards and deductions have been applied, 50% of the remaining income is compared to the total monthly shelter costs and the appropriate Standard Utility Allowance (SUA). If the shelter costs/SUA exceed 50% of the remaining income, the amount in excess of 50% is deducted.

- 6) The Claimant does not dispute that his countable income was \$1400.00 monthly, nor does he dispute that his wife began receiving SSI of \$125.20 in November 2007. In determining countable income for the son-in-law, the Department used the income verification from [REDACTED] (C-1). They looked at the earned income received in the 30 days prior to the 10-2-07 redetermination. The income verification (C-1) shows he was paid \$562.63 on

September 7, 2007 and \$683.38 on September 20, 2007. The Department added those pays together for a total of \$1246.01. They divided \$1246.01 by two (2) for a total of \$623.00 average pay. The Department then multiplied the \$623.00 average pay by 2.15 (for bi-weekly income) for a total of \$1339.45 monthly earnings. The Total Gross Earned Income for the household was determined to be \$2739.46. For December 2007 through February 2008 \$125.20 SSI was added to the household's countable income.

- 7) The Department worker calculated (D-4) the correct countable net income for food stamps as follows: He applied the Earned Income Disregard by subtracting 20% (\$547.89) of the Claimant's total Gross Earned Income from the \$2739.46, which left \$2191.57. He documented that the Claimant was not eligible for the Excess Medical Deduction or Dependent Care Deduction. He subtracted the Standard Deduction amount of \$191 from the \$2191.57, which left \$2000.57. He determined that the Claimant was not eligible for the Shelter Deduction because his income was too high, and arrived at the final net income of \$2000.57 for October 2007 and November 2007. For December 2007 through February 2008 the net income was found to be \$2125.77 after adding the \$125.20 SSI income. Policy was followed throughout all steps taken to arrive at the countable income for the household.
- 8) The Department worker correctly determined (D-4) the actual issuance amounts for the period in question totaled \$1654.00 from October 2007 through February 2008; however, the Department worker incorrectly determined the "corrected coupon allotment" amounts for the same period as follows:

| | |
|-------|-----------|
| 10-07 | \$236.00 |
| 11-07 | \$253.00 |
| 12-07 | \$214.00 |
| 01-08 | \$214.00 |
| 02-08 | \$214.00 |
| Total | \$1131.00 |

The corrected coupon allotment amounts per policy for the period in question are as follows:

| | |
|-------|-----------|
| 10-07 | \$244.00 |
| 11-07 | \$253.00 |
| 12-07 | \$215.00 |
| 01-08 | \$215.00 |
| 02-08 | \$215.00 |
| Total | \$1142.00 |

In summary, the Claimant received \$1654.00 in Food Stamps from October 2007 through February 2008 and should have received \$1142.00. This caused a \$512.00 overpayment of food stamps.

- 9) 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 was entitled to receive. Referrals are made for all over issuances, regardless of the dollar amount. Claims are not written for under \$50 unless there is a liable debtor receiving Food Stamps at the time the claim is written, the error is discovered as the result of a QA review, or it is an IPV claim.

- 10) 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.

VIII. CONCLUSIONS OF LAW:

- 1) Testimony and evidence reveals that the Claimant, at the time of application in October 2007, was living in the same home with his wife and their twin daughters, as well as with his eighteen year old daughter, her husband, and their child. The evidence also shows that both the Claimant and his daughter's husband were employed. The Department did not count the Claimant's eighteen year old daughter, her family, or her family's income in calculations from October 2007 through February 2008.
- 2) A prior hearing examined this same issue and determined that the Department made an error in calculating household composition and income; however, at that time not enough evidence was available to determine if an overpayment had occurred as a result. Policy holds that the eighteen year old daughter, her husband, and their child should have been included in determining eligibility for food stamps for the period in question.
- 3) Evidence shows that the Department caused the error, and the Claimant had no part in causing the overissuance; however, policy dictates that the overpayment must be repaid.
- 4) The Department was correct in their determination that an overpayment had occurred, and correct in their decision to establish a Food Stamp Repayment Claim. The Department correctly calculated the countable income in the process; however, incorrectly determined the "corrected food stamp entitlement" amounts, causing the amount of the Food Stamp Repayment Claim to be less.
- 5) The correct amount for this Food Stamp Repayment Claim is \$512.00.
- 6) It should be noted that the Department has made several attempts to calculate this overpayment, resulting in numerous inaccurate amounts being derived. Although it does not change the fact that an overpayment occurred and must be repaid, the Department should certainly reexamine its practices to ensure more accurate calculations of their overpayments in the future.

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; however, the amount of the Claim has been changed to \$512.00.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 26th Day of November, 2008.

**Cheryl Henson
State Hearing Officer**