



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

December 12, 2008

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 9, 2008. Your hearing request was based on the Department of Health and Human Resources' proposal to establish three (3) separate food stamp repayment claims against your household in the amounts of \$842.00, \$1224.00, and \$1803.00.

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 three separate overpayment claims against your household. The Department correctly calculated the claims.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish and collect three (3) separate food stamp repayment claims in the amounts of \$842.00, \$1224.00, and \$1803.00 against your household.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Brian Shreve, [REDACTED] DHHR

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

_____,
Claimant,

Action Number: 08-BOR-2425

**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 9, 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 December 9, 2008 on a timely appeal filed November 10, 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
_____, Claimant's spouse
_____, Claimant's daughter

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 three (3) separate food stamp repayment claims in the amounts of \$842.00, \$1224.00, and 1803.00.

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 Food Stamp Claim Determination for \$1803.00
- D-2 Food Stamp Claim Determination for \$1224.00
- D-3 Food Stamp Claim Determination for \$842.00
- D-4 Case Comments from Rapids dated January 22, 2008
- D-5 Employment data for _____
- D-6 Employment data for _____
- D-7 Benefit Recovery Referral screen info from Rapids
- D-8 Case Comments from Rapids dated June 1, 2006
- D-9 WV Income Maintenance Manual Section 10.4
- D-10 WV Income Maintenance Manual Section 10.3
- D-11 Benefit Recovery Referral screen info from Rapids
- D-12 WV Income Maintenance Manual Section 2.2
- D-13 WV Income Maintenance Manual Chapter 10, Appendix A
- D-14 Benefit Recovery Referral screen info from Rapids
- D-15 Case Comments from Rapids dated July 2, 2007
- D-16 Case Comments from Rapids dated July 12, 2007
- D-17 Copy of letter from Hearing Officer dated August 4, 2008
- D-18 WV Income Maintenance Manual Section 20.2
- D-19 Copies of notification letters from Department

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was actively receiving food stamp benefits during the month of June 2006, when she completed a food stamp review interview with the Department on June 1, 2006. The Department recorded (D-8) that the Claimant reported three (3) persons in her household and no earned income. She reported unearned income of unemployment for her husband that was verified, as well as rent and utility expenses.

- 2) The Department Representative explained that the first food stamp repayment claim in the amount of \$1803.00 covers the period of July 1, 2006 through November 30, 2006, and resulted from the fact that the Claimant began working on May 1, 2006 (D-5) and failed to report this information during her review interview in June 2006, resulting in the overpayment. She explained that she was hired on originally as a contract worker and thought she would only be paid for one job in the beginning. The income verification (D-5) shows she received pay each month beginning in May 2006, however does show widely fluctuating amounts. The Claimant stated during the hearing she does not dispute this claim or the calculations.
- 3) The Department Representative explained that the second food stamp repayment claim in the amount of \$1224.00 covers the period of May 2007 through July 2007, and resulted from the fact that both the Claimant and her spouse were working and their income became excessive (exceeded the 133% federal poverty level) in March 2007. The Claimant would have had until April 10, 2007 to report the income, so the claim was established beginning May 2007. The Claimant again stated that she does not dispute this claim or the calculations.
- 4) The Department Representative explained that the third food stamp repayment claim in the amount of \$842.00 is an "Agency Error", covers the period of August 2007 through January 2008, and resulted when the Department incorrectly determined countable income during a January 2008 review interview. The Claimant reported both she and her husband were working during the review; however, when the Department worker contacted the employer to verify the employment, the employer reported that the Claimant's husband was working, but that the Claimant was not. This erroneous information resulted in the Department incorrectly determining food stamp eligibility and allotment for the period. The income verification (D-5) later received clearly shows the Claimant was also working during this period.
- 5) The Claimant does not dispute the earnings and household information used in calculations of the third food stamp repayment claim of \$842.00 for the period of August 2007 through January 2008; however she does claim that she did not receive any food stamps for the months of November 2007, December 2007, and January 2008. The Department provided evidence (D-20) which shows the Claimant did receive \$149.00 in food stamp benefits for each of those months.
- 6) 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.

- 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) Policy is clear in that when an Assistance Group (AG) has been issued more food stamps than it was entitled to receive, corrective action is taken by establishing a repayment claim. The Claim is the difference between the entitlement the AG received and the entitlement the AG was eligible to receive. There are two types of Unintentional Program Violations – client errors and agency errors. Agency errors result when a Department error caused the overpayment. Client errors result when the client makes an unintentional error which causes an overpayment.
- 2) Evidence is clear in that the food stamp repayment claims in the amounts of \$1803.00 and \$1224.00 were caused by unintentional client error. The Department correctly established and calculated the amounts of the overpayments.
- 3) Evidence shows that the food stamp repayment claim in the amount of \$842.00 was caused by agency error. The Department correctly established and calculated the amount of this overpayment as well. Although the Claimant reported that she did not receive food stamps for November 2007, December 2007, or January 2008, evidence clearly shows the benefits were issued.

- 4) The Department was correct in their determination to establish three separate food stamp repayment claims in the amounts of \$1803.00, \$1224.00, and \$842.00 against the Claimant.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Agency's proposal to establish and seek collection of three separate food stamp repayment claims in the amounts of \$1803.00, \$1224.00, and \$842.00.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day of December 2008.

**Cheryl Henson
State Hearing Officer**