



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 17, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 17, 2008. Your hearing request was based on the Department of Health and Human Resources' action to establish a Food Stamp repayment claim.

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, Chapter 20.2).

The information which was submitted at your hearing revealed that the Department was correct in its calculation, classification and notification of an \$1879.00 agency error Food Stamp Claim.

It is the decision of the State Hearings Officer to **uphold** the action of the Department to establish a Food Stamp repayment claim.

Sincerely,

Todd Thornton
State Hearings Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Marshall Daniels, Department Representative

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW

Claimant,

V.

Action Number: 08-BOR-959

**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 September 17, 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 April 17, 2008 on a timely appeal, filed February 27, 2008.

II. PROGRAM PURPOSE:

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

_____, Claimant's daughter

_____, Claimant's witness

Marshall Daniels, Repayment Investigator

Julia Timko, Economic Service Worker

Presiding at the Hearing was Todd Thornton, 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 Department was correct in its establishment of a Food Stamp repayment claim against the Claimant.

V. APPLICABLE POLICY:

7 CFR §273.16 Code of Federal Regulations
West Virginia Income Maintenance Manual, Chapter 1.4
West Virginia Income Maintenance Manual, Chapter 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Children's Health Insurance Program renewal application form, dated September 21, 2006
- D-2 RAPIDS AQAE Screen Print (Assistance Group Eligibility History)
- D-3 RAPIDS IQFS Screen Print (Food Stamp Issuance History – Disbursement)
- D-4 Notification letter dated November 13, 2006 (Food Stamp approval letter, prorated initial monthly allotment)
- D-5 Notification letter dated November 13, 2006 (Food Stamp approval letter, ongoing monthly allotment)
- D-6 RAPIDS BVRP Screen Print (Benefit Recovery Referral), dated October 25, 2007
- D-7 Food Stamp Claim Determination form (ES-FS-5)
- D-8 West Virginia Income Maintenance Manual, Chapter 1.2, B, 1
- D-9 West Virginia Income Maintenance Manual, Chapter 1.2, C, 1
- D-10 West Virginia Income Maintenance Manual, Chapter 1.2, M
- D-11 West Virginia Income Maintenance Manual, Chapter 1.4, A
- D-12 Notification letter dated January 22, 2008 (Food Stamp overissuance)
- D-13 West Virginia Income Maintenance Manual, Chapter 20.2

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) On September 21, 2006, the Claimant submitted a review form for the West Virginia Children's Health Insurance Program. (Exhibit D-1) The Claimant did not submit an application for, or complete an interview for Food Stamp benefits.
- 2) The Department processed the review for West Virginia Children's Health Insurance Program, but additionally issued Food Stamp benefits to the Claimant in error. Exhibit D-2 shows an initial, prorated benefit level of \$116.00 for November 2006, an ongoing

monthly allotment of \$159.00 from December 2006 through September 2007, and a monthly allotment of \$173.00 for October 2007.

- 3) The Department submitted Exhibit D-3, which showed allotment amounts matching the amounts shown in Exhibit D-2. The Department additionally submitted two notification letters (Exhibits D-4 and D-5) showing the initial, prorated allotment and the ongoing allotment which equal the amounts shown in Exhibits D-2 and D-3.
- 4) The Department, the Claimant, the Claimant's daughter and the Claimant's witness were all in agreement that no application was made for Food Stamp benefits. However, both approval letters to the Claimant (Exhibits D-4 and D-5) state, in pertinent part:

“ACTION: Your application for Food Stamps dated 10/06/06 has been APPROVED.”

- 5) The Claimant explained that although she did not apply for Food Stamps, she thought she was being sent them as a ‘blessing.’ She stated that she did not mean to do anything wrong by using the Food Stamps, that she had never asked for assistance in her life until recently, and that she did not have the money to repay the Food Stamp claim established by the Department.
- 6) The West Virginia Income Maintenance Manual, Chapter 1.3, A through Chapter 1.3, B states:

“1.3 APPLICATION FORMS

The forms listed below are used to make an application for the Food Stamp, WV WORKS and Medicaid Programs. Within the Medicaid Program, some coverage groups use special forms. No Program-specific instructions for completion or usage are described here. Refer to application procedures under each Program and coverage group.

A. OFS-2 and inroads

The OFS-2 and the inROADS application serve these purposes:

- It is used for gathering client information. This data is used to determine eligibility and the need for other services offered by the Department.
- It is a fact sheet containing relevant information about the AG and other members of the household who are not included in the benefit.
- It serves as a legal document and may be used in any court case.

NOTE: See the inROADS User Guide.

1. OFS-2 Generated by RAPIDS

The OFS-2 is generated by RAPIDS after completion of the interactive interview and is the primary application form. Since this form is used for all 3 major Programs, denial of an application for one Program may lead to approval for another.

NOTE: When the applicant has completed the interactive interview, and there is a technical failure that prevents printing the OFS-2, Form OFS-5 must be signed by the applicant, attached and filed in the case record with the subsequently printed OFS-2. The DFA-RR-1 must also be completed and signed. He must not be required to return to the office to sign the OFS-2 when an OFS-5 has been signed.

NOTE: Even though Poverty-Level pregnant women and children, WV CHIP, QC, QMB, SLIMB, and QI-1 have separate application forms, these special forms need not be completed if a OFS-2 is completed for another Program or coverage group. However, when the client is only interested in applying for one of these programs, that special application is used as found below.

2. OFS-2 Shelf Document

When circumstances do not permit completion of the application process in RAPIDS, the OFS-2 shelf document is used to make an application for most DFA Programs.

B. DFA-RR-1

The DFA-RR-1 is required each time an OFS-2 or OFS-5 is completed. The client must read, or have read to him, all the statements preceding his signature before signing the form. He must also indicate his understanding of, or agreement with, each statement by checking the appropriate block inside the statement.

The Worker must provide any explanation and information the client needs to understand the statements. After completing all applicable sections, the client signs the form in the presence of the Worker. Failure to sign the form results in ineligibility.

NOTE: When a client checks “no” to an item, it does not result in immediate ineligibility. The client has to actually fail to comply with the requirement in order to result in ineligibility.

EXAMPLE: The client applying for Food Stamp benefits checks “no” to the statement concerning the requirement to cooperate with Quality Assurance. The AG is eligible and benefits are approved. QA selects the case for review in the second month. The client refuses to cooperate and, only then, is notice of closure sent.

NOTE: In all situations where case information is released to another organization or agency, the information must have form OFS-CI-1 attached to it.

NOTE: The rights and responsibilities are included with the inROADS application.”

- 7) West Virginia Income Maintenance Manual, Chapter 20.2 states, in pertinent part:

“When an AG 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 coupon entitlement of the AG and the coupon allotment the AG was entitled to receive.**”
(emphasis added)

- 8) The Department presented Exhibit D-7, which showed the calculation of the Food Stamp claim. The total amount of coupon entitlement received was \$1879.00, with individual monthly amounts corresponding with the amounts previously shown in Exhibits D-2, D-3, D-4, and D-5. Because there was no application for Food Stamp benefits, the Department contended that the corrected amount was zero, and the resulting claim amount would be the entire \$1879.00 amount issued to the Claimant.
- 9) The Claimant’s daughter reiterated that the Claimant is unable to repay the claim established by the Department. The Department indicated that there is no hardship provision for Food Stamp claims.
- 10) The Claimant’s daughter stated that the Claimant did not sign anything, and the Claimant’s witness elaborated that the Claimant did not sign a Rights and Responsibilities Form, or DF-RR-1. The Claimant’s witness contended that because a DF-RR-1 was not signed, the Claimant should not have to repay the Food Stamp claim. No policy was presented by the Claimant, her daughter, or her witness to support this contention.
- 11) With regard to Unintentional Program Violation, or UPV claims, the West Virginia Income Maintenance Manual, Chapter 20.2, C, 1, states, in pertinent part:

“A UPV claim is established when:

- An error by the Department resulted in the overissuance.”

- 12) The Department classified the Food Stamp claim as an agency error, UPV claim for \$1879.00, and notified the Claimant of this on January 22, 2008. (Exhibit D-12)

VIII. CONCLUSIONS OF LAW:

- 1) The Department demonstrated that they acted correctly according to policy in the calculation, establishment, and notification of an \$1879.00 agency error Food Stamp claim. The Department explained clearly how they derived the actual Food Stamp amounts issued to the Claimant, the policy requiring an application to receive Food Stamps, and the resulting claim amount of the total \$1879.00 issued to the Claimant in error. Policy requires the repayment of agency error Food Stamp claims, and makes no provisions for hardship.
- 2) On behalf of the Claimant it was stated that because there was no application made for Food Stamps and no Rights and Responsibilities form signed by the Claimant, the Claimant should not be required to repay the Department's Food Stamp claim. The failure of this argument lies in two points – first, that the underlying ineligibility was caused by not completing an application or signing the Rights and Responsibilities form; and second, that no policy exists to require any form to be signed before a Food Stamp repayment claim may be established.

IX. DECISION:

It is the decision of the State Hearings Officer to **uphold** the action of the Department to establish an \$1879.00 Food Stamp claim for repayment by the Claimant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of September, 2008.

**Todd Thornton
State Hearings Officer**