



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1400 Virginia Street  
Oak Hill, WV 25901

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

May 7, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 5, 2009. Your hearing request was based on the Department of Health and Human Resources' proposal of a repayment of an overissuance of Supplemental Nutrition Assistance Program (SNAP) benefits.

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 SNAP is based on current policy and regulations. Some of these regulations state that when an Assistance Group has received more SNAP benefits than it was entitled to receive, corrective action is taken by establishing a claim for the overpayment. The claim is the difference between the amount of benefits received and the amount of benefits to which the Assistance Group was entitled (West Virginia Income Maintenance Manual § 20.2).

The information submitted at your hearing revealed that you do not meet the definition of an eligible student to participate in the SNAP program. Although the overpayment was the result of an agency error, all overpayments, regardless of fault, are subject to repayment.

It is the decision of the State Hearings Officer to **uphold** the proposal of the Department to establish a repayment claim for an overissuance of SNAP benefits.

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review  
Christine Allen, Repayment Investigator

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

-----,

**Claimant,**

**v.**

**Action Number: 09-BOR-1040**

**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 May 5, 2009 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 May 5, 2009 on a timely appeal, filed March 16, 2009.

**II. PROGRAM PURPOSE:**

The Program entitled Supplemental Nutrition Assistance Program (SNAP) is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of SNAP 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  
Christine Allen, Repayment Investigator

Presiding at the Hearing was Kristi Logan, 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 or not the Department's proposal of a repayment of SNAP benefits is correct.

#### **V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 9.1A(2)f and 20.2

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

##### **Department's Exhibits:**

- D-1 Fair Hearing Summary
- D-2 Food Stamp Claim Determination Form
- D-3 Case Members History Screen (AQCM) from Rapids Computer System
- D-4 Food Stamp Issuance History Screen (IQFS) from Rapids Computer System
- D-5 Hearing Request received March 16, 2009
- D-6 Referral/Claim Comments Screen from Rapids Computer System dated March 20, 2009
- D-7 Case Comments Screen from Rapids Computer System from September – October 2009
- D-8 Paystubs from -----for September 3, 2008 and September 17, 2008
- D-9 Employer Statement from Concord University dated September 25, 2008
- D-10 Combined Application Form dated September 23, 2008
- D-11 Rights and Responsibilities Form dated September 23, 2008
- D-12 Benefit Recovery Referral Screen (BVRP) from Rapids Computer System
- D-13 WV Income Maintenance Manual § 1.2 E
- D-14 WV Income Maintenance Manual § 20
- D-15 WV Income Maintenance Manual § 9.1A(2)f

##### **Claimants' Exhibits:**

None

#### **VII. FINDINGS OF FACT:**

- 1) Claimant applied for SNAP benefits on September 23, 2008. Claimant works part-time at -----and [REDACTED] University, where she is a full-time college student. Income for her employment at [REDACTED] University was verified by an employer statement which read (D-9):

----- is employed by Student Support Services at [REDACTED] University. -----'s pay rate is \$7.25 per hour which is the mandatory rate for students employed in state offices. ----- is paid through the Federal Grant for Student Support Services as a general office assistant four hours per week.

This employment with [REDACTED] University was incorrectly interpreted as a federal college work study (D-7). Claimant was approved for SNAP benefits as meeting the definition of an eligible student based on participation in a college work study.

- 2) After the case was reviewed by a case reader, it was verified with [REDACTED] University that Claimant's employment there was not work study (D-7). Claimant did not work at

least twenty (20) hours a week and did meet any other exemptions. SNAP benefits were terminated and a referral to repayment was made.

- 3) Claimant testified that she was a full-time student. She had to decrease her hours at -----this semester due to her school schedule. Claimant stated the employer statement from [REDACTED] University she provided did not state that she was in work study. She never misrepresented herself to the Department and felt it unfair to have to repay benefits that were a result of worker error.
- 4) WV Income Maintenance Manual §9.1A(2)f states:

If a member of the SNAP Assistance Group (AG) is a student and meets any one of the following criteria, he is not considered a student for SNAP purposes, and eligibility is determined as for any other individual. An individual is not considered a student if:

- He is under age 18.
- He is age 50 or over.
- He is physically or mentally disabled.
- He is attending high school.
- He is attending school less than half-time.
- He is enrolled full-time in a school or training program which does not meet the definition of an institution of higher education.
- He is participating in an on-the-job training program.

Students who meet one or more of the following criteria are eligible to participate, provided all other eligibility factors are met:

- The student is employed at least 20 hours per week or 80 hours a month, and is paid for the employment.
- The student is participating in a state- or federally-financed College Work Study (CWS) program during the regular school year.
- The student is included in a WV WORKS payment.
- The student is assigned to or placed in an institution of higher education through one of the following.
  - The SNAP Employment and Training Program (SNAP E&T)
  - Workforce Investment Act (WIA)
  - Section 236 of the Trade Act of 1974
  - An employment and training program for low-income households that is operated by a state or local government when one or more of the program's components is at least equivalent to SNAP E&T.
- The student has the principal responsibility for the care of a child who meets certain criteria.

- 5) WV income Maintenance Manual § 20.2 states:

When an AG has been issued more SNAP benefits 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.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy makes no distinction between claims resulting from errors made by the Claimant or the agency. The repayment amount to be recovered is the difference between the entitlement the Assistance Group received and the entitlement the Assistance Group should have received.
- 2) Claimant was incorrectly determined to be participating in college work study and meeting the definition of an eligible college student. Claimant is not working at least eighty (80) hours a month and meets no other exemptions listed in policy to qualify for SNAP benefits. The resulting agency error was an overpayment SNAP benefits of \$395.
- 3) Claimant was not eligible to receive SNAP benefits for September and October 2008 and will be required to repay the benefits issued for that time period.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department for Claimant to repay of SNAP benefits of \$395 for September and October 2008.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 7<sup>th</sup> Day of May, 2009.**

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**Kristi Logan**  
**State Hearing Officer**