



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review**

**Joe Manchin, III  
Governor**

**Martha Yeager Walker  
Secretary**

July 2, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 15, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to impose 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. These regulations provide that an individual who resides in a school dormitory and receives the majority of meals from the school are not eligible for SNAP benefits (WV Income Maintenance Manual § 9.1A).

The information submitted at your hearing revealed that you did not receive the majority of your meals through the school's meal plan and were therefore eligible to receive SNAP benefits from April 2008 – November 2008.

It is the decision of the State Hearings Officer to **Reverse** the proposal of the Department to impose a repayment of SNAP benefits..

Sincerely,

Kristi Logan  
State Hearings Officer  
Member, State Board of Review

cc: Board of Review  
Rusty Udy, Repayment Investigator

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

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**Claimant,**

**v.**

**Action Number: 09-BOR-1205**

**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 June 15, 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 June 15, 2009 on a timely appeal, filed May 11, 2009.

**II. PROGRAM PURPOSE:**

The Program entitled Supplemental Nutrition Assistance Program (SNAP) is 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

-----, Claimant's Mother

Rusty Udy, Repayment Investigator

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

**IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether or not the Department's proposition of a repayment of SNAP benefits is correct.

**V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 8.2 A, 9.1 A and 20.2

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

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Case Member History Screen (AQCM) from RAPIDS Computer System
- D-3 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-4 Case Comments (CMCC) from RAPIDS Computer System
- D-5 Combined Application Form dated April 7, 2008
- D-6 Benefit Recovery Referral Screen (BVRF) from RAPIDS Computer System
- D-7 SNAP Claim Determination Form
- D-8 WV Income Maintenance Manual § 8.2 A
- D-9 WV Income Maintenance Manual § 9.1 A(2)f
- D-10 WV Income Maintenance Manual § 9.1A(2)f(3)
- D-11 WV Income Maintenance Manual § 20

**Claimants' Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) Claimant had her SNAP benefits reviewed in October 2008. SNAP benefits were terminated when it was determined Claimant was not in a qualified living arrangement. Claimant was a full time student at [REDACTED] University and residing on campus in the school dormitory.
- 2) The Department contends that Claimant was not eligible to receive SNAP benefits while residing in the school dormitory since she participated in a meal plan. The

Department is requesting Claimant repay SNAP benefits of \$1291 issued during the time period of April 2008 – November 2008 when she was living in the dormitory.

- 3) Claimant testified that participation in a meal plan is mandatory for all students who live on campus. Claimant had the least meal plan available, 8 meals a week and \$195 credit to be used at the campus Subway restaurant. Claimant has a seizure disorder which prevents her from driving. She has no choice but to live on campus since she cannot drive. She is also lactose intolerant and unable to eat most of the food offered at the school cafeteria.

Claimant stated she uses the dormitory's communal kitchen to prepare meals and has a small refrigerator in her room. Claimant tried to opt out of the meal plan but could not as participation in a meal plan is a requirement of all dormitory residents. Claimant felt it unfair to penalize her for living in the dormitory since she must buy groceries to supplement the meal plan.

- 4) WV Income Maintenance Manual § 8.2 A(2) states:

An individual must not be a resident of a public or private institution [to receive SNAP benefits].

The individual is considered a resident of an institution when the institution provides the majority of their meals, which is defined as over 50% of three meals daily, as part of the institution's normal services, and the institution has not been authorized to accept SNAP benefits.

Note: A school dormitory is considered an institution. Therefore, any student who resides in a school dormitory and receives the majority of his meals from the institution's meal plan is ineligible to participate in the SNAP program. This includes, but is not limited to, colleges and military boarding schools, even when the student returns home for weekends. See the exemptions below for those who do not receive the majority of their meals from the institution.

The following groups are exempt from this policy:

- Residents of institutions who do not receive their meals from the institution, but who purchase and prepare their own food, or participate in a delivered meals program or a communal dining program are eligible, if they meet all other eligibility requirements. This includes those students who reside in school dormitories with optional meal plans and do not receive the majority of their meals from the institution.

- 5) WV Income Maintenance Manual § 9.1 A(2)f states:

Any student who lives in a dormitory operated by the school and receives the majority of his meals from the school is ineligible to participate in the SNAP Program regardless of whether or not he meets an exception to the [student] policy.

- 6) WV Income Maintenance Manual § 9.1 A(1)f(3) states in pertinent parts:

A student is considered to be enrolled the day he is scheduled to begin classes. Enrollment, for the purpose of being enrolled in an institution of higher education, is defined as continuing during periods of vacation or recess. Students eligible during the school year continue to be eligible, providing all other eligibility factors are met, during the summer months. Students not eligible during the school year remain ineligible during vacation periods.

- 7) WV Income Maintenance Manual § 20.2 states:

When an Assistance Group (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.

## VIII. CONCLUSIONS OF LAW:

- 1) Claimant participated in a meal plan provided through her university of eight (8) meals a week and a \$195 semester credit at a Subway restaurant. Using an average cost of a meal at Subway as \$6, the \$195 credit would provide Claimant with 32 meals per semester. The eight (8) meals per week provided by the school can be converted to 128 meals per semester (based on a 16 week semester). Claimant receives 160 meals each semester through her school meal plan.
- 2) Policy dictates that an individual who resides in a school dormitory and receives the **majority** [emphasis added] of meals from the school is ineligible for SNAP benefits. Policy defines the majority of meals as receiving over 50% of 3 meals per day from the school. Three meals a day based on a 16 week semester converts to 336 meals a semester. Claimant would have to receive at least 168 meals a semester for her to receive the majority of meals from school.
- 3) Claimant was eligible to participate in the SNAP program as she does not receive the majority of her meals from the school meal plan and therefore is not responsible to repay SNAP benefits issued during her residence in the dormitory.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to impose a repayment of SNAP benefits issued during April 2008 – November 2008.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 2<sup>nd</sup> day of July 2009.**

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