



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
9083 Middletown Mall  
White Hall, WV 26554

Joe Manchin III  
Governor

Patsy A. Hardy, FACHE, MSN, MBA  
Cabinet Secretary

November 9, 2009

-----and -----  
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Dear -----and -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 20, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to establish a Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp, repayment claim against your household.

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 Stamp (SNAP) benefits 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 Department or the household, are subject to repayment. (West Virginia Income Maintenance Manual, Chapter 20.2 and 7 CFR § 273.18 - Code of Federal Regulations).

Information submitted at your hearing reveals that the Department incorrectly calculated household income during the period August 2008 through March 2009 resulting in an overissuance of SNAP benefits in the amount of \$1539. While you contend that you should not be responsible to repay overissued SNAP benefits caused by an agency error, all SNAP overpayments, whether caused by the Department or the household, are subject to repayment.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish and seek collection of a SNAP (Food Stamp) repayment claim in the amount of \$1539 for the period August 2008 through March 2009.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

Pc: Erika H. Young, Chairman, Board of Review  
Teresa Smith, SRI, DHHR

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

----- (Claimant) and ----- (Co-Claimant),

**Claimants,**

v.

**Action Number: 09-BOR-1469**

**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 9, 2009 for -----and ----- . 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 originally scheduled to convene on July 28, 2009 but rescheduled to convene on September 11, 2009 as the video conference equipment failed. The September 11, 2009 hearing was continued at the request of the Claimants so they could attend a funeral. This hearing was subsequently convened on October 20, 2009 on a timely appeal filed April 24, 2009.

**II. PROGRAM PURPOSE:**

The purpose of the Supplemental Nutrition Assistance Program (SNAP), formerly 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

-----, Co-Claimant

Teresa Smith, State Repayment Investigator (SRI), DHHR

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Agency is correct in its proposal to establish and seek repayment of a SNAP (Food Stamp) repayment claim.

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

West Virginia Income Maintenance Manual, Chapter 10.4 & 20.2.  
7 CFR § 273.18 - Code of Federal Regulations.

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

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

- DHS-1 Food Stamp Claim Determination – August 2008 through March 2009
- DHS-2 Employment / Income information entered into RAPIDS for -----
- DHS-3 Employment / Income information entered into RAPIDS for -----
- DHS-4 Detailed Earned Income for ----- pay periods 9/15/08 through 2/16/09
- DHS-5 Detailed Earned Income for ----- – pay period 6/4/09 through 2/4/09
- DHS-6 WVIMM, Chapter 10.4 (income), Chapter 20.1 (Benefit Repayment) & Chapter 20.2 (Food Stamp Claims and Repayment Procedures)
- DHS-7 Notification of Supplemental Nutrition Assistance Program (SNAP) Overissuance dated 4/21/09

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

- 1) On or about April 21, 2009, the Claimant was notified of the Supplemental Nutrition Assistance Program (SNAP) overissuance. This notice states, in pertinent part:

We have determined that you were issued more SNAP benefits than you were eligible to receive during the period 8/1/08 to 03/31/09 because of incorrect income disregards/deductions.

This notice goes on to indicate that an Agency Error claim for \$1539 has been established against the Claimant's household.

- 2) The Department's representative, Teresa Smith, State Repayment Investigator, presented evidence to indicate the Claimant reported the birth of her child and indicated the child's father, Co-Claimant, was now residing in her home in June 2008. The Department received verification of household income in July 2008 – the Claimant's income was removed as she was no longer working and the Co-Claimant's income was coded to indicate he was paid bi-weekly.

- 3) The Claimant completed a SNAP (Food Stamp) review on 10/3/08 and indicated she returned to work. Household income was verified and the Co-Claimant's income was again coded into the system based on a bi-weekly pay schedule.
- 4) The Department's representative testified that it was during a benefit review completed with the Claimant in March 2009 that it was discovered the Co-Claimant's income was placed into the Department RAPIDS computer system incorrectly. According to the evidence submitted by the Department, DHS-2 and DHS-5, the Co-Claimant's income was calculated incorrectly as he was on a weekly pay schedule - not a bi-weekly pay schedule. The Department noted that because of the agency error, the Claimant's monthly household income was calculated to be significantly less than actual household earnings. As a result, the Claimant's assistance group (AG) received an overpayment of SNAP benefits in the amount of \$1539 during the period August 2008 through March 2009 (see Exhibit DHS-1)
- 5) Neither the Claimant nor the Co-Claimant contested the facts in this case. The Claimant indicated that she met with a Department worker on two different occasions and she fails to see why she and the Co-Claimant should be held responsible for repayment when the Department made the error.
- 6) West Virginia Income Maintenance Manual, Chapter 10.4, C:  
This section contains policy relating income disregards and deductions and computation of and eligibility for Food Stamp benefits. It also states: To determine the coupon allotment, find the countable income and number (of persons) in the benefit group.
- 7) West Virginia Income Maintenance Manual, Chapter 20.2:  
When an AG (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 should have received.
- 8) West Virginia Income Maintenance Manual, Chapter 20.2,C:  
There are 2 types of UPV's, client errors and agency errors.  
A UPV claim is established when:
  - An error by the Department resulted in the overissuance.
  - An unintentional error made by the client resulted in the overissuance

## **VIII. CONCLUSIONS OF LAW:**

- 1) The evidence reveals that the Department coded the Claimant's household monthly income amount incorrectly in the RAPIDS computer system resulting in an overissuance of \$1539 in SNAP benefits during the period August 2008 through March 2009. This is clearly an Unintentional Program Violation (UPV) based on an Agency error.

- 2) Pursuant to policy found in Chapter 20 of the West Virginia Income Maintenance Manual, the Department has correctly proposed repayment of the overissued SNAP benefits as policy makes no distinction between claims resulting from errors made by the Claimant or the Agency - The claim is the difference between the entitlement the assistance group received and the entitlement the assistance group should have received.
- 3) The Department's proposal to establish and seek collection of a repayment claim is therefore affirmed.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish and seek collection of a SNAP repayment claim in the amount of \$1539 for the period August 2008 through March 2009.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 9<sup>th</sup> Day of November, 2009.**

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**Thomas E. Arnett  
State Hearing Officer**