



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
P.O. Box 1736  
Romney, WV 26757

Joe Manchin III  
Governor

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

October 19, 2009

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Dear: -----,

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 8, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your Supplemental Nutrition Assistance Program (SNAP) benefits and to establish a SNAP 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 SNAP benefits is based on current policy and regulations. These regulations provide that Eligibility for SNAP benefits and the amount of the SNAP allotment are based on a determination of countable household income (that income remaining after all appropriate disregards and deductions are applied) and the number of individuals in the Food Stamp benefit group. (West Virginia Income Maintenance Manual 10.4 and 7 CFR 273.10(e) - Code of Federal Regulations) Regulations for recoupment of SNAP benefits provide that that when an assistance group (AG) has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing a claim. When the AG composition changes, collection is pursued against any and all AG's which include a liable debtor. 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 & 7 CFR §273.18 - Code of Federal Regulations).

The information which was submitted at your hearing revealed that your income exceeded the income limits for an assistance group of two individuals and you were required to report this income as a limited reporting assistance group.

It is the decision of the State Hearings Officer to Uphold the action of the Department to terminate your SNAP benefits. Furthermore, it is also the decision of the State Hearings Officer to uphold the proposal of the Department to seek repayment in the amount of \$907.00 for the months of February 2009 through June 2009.

Sincerely,

Eric Phillips  
State Hearings Officer  
Member, State Board of Review

cc: Board of Review  
-----, ESS  
Sally Musick, RI

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

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**Respondent,**

**v.**

**Action Number: 09-BOR-1470  
09-BOR-1420**

**West Virginia Department of  
Health and Human Resources,**

**Movant,**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on October 19, 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 October 8, 2009 on a timely appeal, filed June 23, 2009.

It should be noted that hearing was originally scheduled for September 8, 2009 and rescheduled per Respondent's request.

**II. PROGRAM PURPOSE:**

The purpose of the Supplemental Nutrition Assistance Program (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 benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

**III. PARTICIPANTS:**

-----, Respondent  
-----, Co-Respondent  
-----, Customer Service Center North Supervisor  
Sally Musick, Repayment Investigator

Presiding at the Hearing was Eric L. Phillips, 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 was correct in its action to terminate the Respondent's Supplemental Nutrition Assistance Program benefits due to excessive income and the recoupment of any benefits in which the assistance group was not entitled to for the months of February 2009 through June 2009.

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

West Virginia Income Maintenance Policy Manual Chapter 2.2; 20.2

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

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

- D-1 Case Comments printouts from RAPIDS benefit system
- D-2 Food Stamp Allotment Determination printout from RAPIDS benefit system
- D-3 West Virginia Income Maintenance Manual Chapter 10 Appendix A
- D-4 Benefit Recovery Referral Form
- D-5 West Virginia State Online Query Social Security Information
- D-6 West Virginia Income Maintenance Manual Section 2.2
- D-7 ES/FS-5, Food Stamp Claim Determination Form
- D-8 West Virginia Income Maintenance Manual Section 20.2

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

- 1) The Respondent was a current recipient of Supplemental Nutrition Assistance Program benefits, hereinafter SNAP, and completed a SNAP contact review form on April 27, 2009. Exhibit D-1, provides that the Customer Service Center North completed the contact review form and issued a corresponding verification checklist as the Respondent reported an increase in his property taxes for the year 2008. The Department received all requested verifications and also received Co-Respondents Medicare Card showing an effective date of coverage for May 1, 2009.

The Income Maintenance worker processing the contact review form found it to be questionable that Co-Respondent was receiving Medicare and no Social Security Income was being calculated toward the SNAP allotment. An inquiry was made to the Social Security Administration and the Department discovered that Co-Respondent was awarded Social Security income in August 2008.

- 2) Exhibit D-2, Food Stamp Allotment Determination, verifies that total gross income for the assistance group was \$1844.40. Respondent receives \$828.00 per month in Social Security Disability benefits and Co-Respondent receives \$1016.40 in Social Security Disability benefits. Exhibit D-3, West Virginia Income Maintenance Manual Chapter 10 Appendix A, indicates that the maximum gross income level for an assistance group of two individuals is \$1517.00 monthly and the net income level for the corresponding assistance group is \$1167.00.

- 3) West Virginia Income Maintenance Manual Section 2.2 states in pertinent part:

All SNAP AG's must report changes related to eligibility and benefit amount at application and redetermination.

Once approved, all AG's must report when the total gross earned and unearned income of the AG and all other individuals who reside with the AG exceeds the AG's gross income limit. This must be reported no later than the 10<sup>th</sup> calendar day of the month following the month in which the change occurs.

- 4) Total income for the assistance group exceeded both the net and gross income levels, and the Department terminated the Respondent's SNAP benefits and issued a referral for benefits to which the Respondent's assistance group was not entitled for the months of September 2008 through May 2009.
- 5) On May 21, 2009, Sally Musick, Repayment Investigator received Exhibit D-4, a referral for the possible recoupment of benefits against the Respondent for his failure to report his wife's Social Security Income in a timely manner. The Repayment Investigator discovered that Co-Respondent had originally applied for Social Security benefits in 2007 and she received her first Social Security benefit of \$961.00 in December 2008. Co-Respondent's income increased to \$1017.00 in January of 2009 and decreased to \$1016.40 in April 2009.
- 6) The Repayment Investigator established a claim for recoupment of SNAP benefits based on excessive income for the assistance group. Exhibit D-7, revealed that a claim for recoupment was established in the amount of \$907.00 for the months of February 2009 to June 2009. The recoupment claim was derived from the amount of SNAP benefits the assistance group received during the span of over issuance (\$983.00) compared to the amounts in which the assistance group should have received (\$76.00) had all income been assessed toward the benefit. This exhibit further documents that the assistance group's net income during the period in which benefits were over issued totaled \$1530.00 for February 2009, \$1631.00 for March 2009, and \$1630.00 for April 2009 through June 2009.
- 7) West Virginia Income Maintenance Manual Section 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.

- 8) The Respondent testified that he attempted to close his benefits by relinquishing his Electronic Benefits Transfer (EBT) card to the local office. The Respondent purported that he was informed by the local office to keep his EBT card in the event his benefits were restored. The Respondent and Co-Respondent testified that they are both in poor health and are in need of SNAP benefits to regulate their diabetic diets.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy clearly dictates that income, whether earned or unearned, that exceeds the gross income level for an assistance group must be reported to the Department no later than the 10<sup>th</sup> calendar day of the month following the month in which the change of income occurs.
- 2) Policy further indicates that if an assistance group has been issued more benefits than they are entitled to receive, whether intentionally or unintentionally, a claim is established to recoup the excess benefits.
- 3) Testimony revealed that the Respondent's total household income exceeded both of the established income limits established by policy; therefore the Department was correct in its decision to terminate the Respondents SNAP benefits. Policy guidelines further dictate that income must be reported in a timely manner. The Respondent failed to report his wife's income to the Department by the 10<sup>th</sup> day of the following month in which it was received; therefore the Department was also correct in establishing a claim for recoupment for all benefits that were received in error.

**IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the action of the Department to terminate the Respondent's SNAP benefits and establish a claim in the amount of \$907.00 for recoupment of over issued benefits for the months of February 2009 through June 2009.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Respondent's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_\_ day of October 2009.**

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**Eric L. Phillips**  
**State Hearing Officer**