



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

September 17, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 27, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to establish a Supplemental Nutrition Assistance Program (SNAP) repayment claim against your household.

In arriving at a decision, the State Hearing 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 (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).

Information submitted at your hearing demonstrates that your husband is a liable debtor as he was a member of his mother's AG when a SNAP overissuance occurred. As a result, the Department is correct to pursue your AG for recoupment of SNAP benefits.

It is the decision of the State Hearing Officer to **uphold** the Department's action to pursue the Claimant's AG for repayment of SNAP benefits overissued in the ----- case.

Sincerely,

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

Pc: Erika H. Young, Chairman, Board of Review
Teresa Smith, State Repayment Investigator, DHHR

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

----- (Formerly -----),

Claimant,

v.

Action Number: 09-BOR-1471

**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, 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 August 27, 2009 on a timely appeal filed July 2, 2009.

II. PROGRAM PURPOSE:

The purpose of the SNAP 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 witness

-----, Claimant's witness

Teresa Smith, State Repayment Investigator (SRI), WVDHHR

Presiding at the hearing was Thomas E. Arnett, 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 Agency is correct in its proposal to establish and seek repayment of a SNAP claim.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 20
7 CFR §273.18 - Code of Federal Regulations.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp [SNAP] Claim Determination and Computation Sheets
- D-2 Notification of Supplemental Nutrition Assistance Program (SNAP) Overissuance (2/9/09)
- D-3 Notice of Decision (2/11/09)
- D-4 Notice of Decision (3/7/09)
- D-5 Correspondence dated 6/17/09 advising payment has not been received
- D-6 Case Members History (for ----- and -----)
- D-7 Claims for an Individual (-----)
- D-8 WV Income Maintenance Manual, Chapter 20.2.E
- D-9 E-mail correspondence dated 6/29/09 regarding Tax Offset Program (TOP)
- D-10 Tax Offset Program (TOP) suppressed
- D-11 EBT Transaction History for ----- and ----- – October and November 2008

VII. FINDINGS OF FACT:

- 1) The Claimant received an overissuance of Supplemental Nutrition Assistance Program (SNAP) benefits during the period October 17, 2008 – November 30, 2008 in the amount of \$244 (See Exhibit D-1). Exhibit D-11 confirms that \$244 was erroneously credited to the Claimant's Electronic Benefit Transaction (EBT) Card on October 17, 2008 further demonstrates that \$244 in EBT benefits was spent in transactions that occurred on October 23, 2008.
- 2) The Claimant was notified of the overissuance in correspondence dated 2/9/09 (D-2) and advised that the overissuance occurred due to a budget group (Agency) error.
- 3) The Claimant and her spouse applied for SNAP benefits and on February 11, 2009 they were notified that while their application for SNAP benefits was approved, the monthly \$112 amount of SNAP benefits effective March 1, 2009 included a \$12 benefit reduction for repayment of overissued benefits.
- 4) In a Notice of Decision dated March 7, 2009 (D-4), the Claimant was notified that her SNAP benefits increased from \$112 to \$152 effective April 1, 2009, however, the

calculations included on the last page of this notice indicated \$16 in SNAP benefits is being recouped monthly.

- 5) The determination was made, however, that the SNAP benefits being withheld for recoupment were being credited toward the overissuance in -----'s SNAP case. According to the Department, the Claimant's spouse, -----, is a liable debtor resulting from an overpayment that occurred in his mother's case when he was a member of her benefit group. The liable debtor policy allows the Department to pursue the Claimant's AG for benefit repayment since the Claimant's spouse is a liable debtor. The Department further explained that the overpayment in -----'s case was determined to be a "client error" and due to the priority of collections, client error overissuances are collected/repaid before agency error overissuances. That's why the money being withheld from the Claimant's AG is going toward the repayment of overissued SNAP benefits in -----'s case. As a result, the Claimant's SNAP repayment amount remains at \$244. It should be noted that the Department submitted Exhibit D-10 only to show that the Claimant's name was removed from the Tax Offset Program (TOP) due to the method in which the repayment is being collected.
- 6) ----- purported that the \$244 put on the Claimant's case was intended for her and she alleged that she did not receive any SNAP benefits for October and November 2008. However, Exhibit D-11 confirms that ----- received two (2) deposits of SNAP benefits in her account on 10/31/08 - \$99.00 and \$158.
- 7) West Virginia Income Maintenance Manual, Chapter 20.2:
When an AG (assistance group) 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 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
- 9) Policy found in the West Virginia Income Maintenance Manual, Chapter 20.2.E provides direction regarding the collection of a SNAP claim and states, in pertinent part:

Collection action is initiated against the AG which received the overissuance.
When the AG composition changes, collection is pursued against any and all AG's which include a liable debtor.

This policy goes on to provide a list of individuals who are equally liable (liable debtors) for the total amount of the overpayment. Among those individuals listed are adult or emancipated minors in the AG.

For AG's containing a liable debtor that are certified at the time the claim is established, collection activity may begin by recoupment, after the notice period expires. Recoupment by coupon allotment reduction is mandatory for all claims when a liable debtor is certified for Food Stamps (SNAP).

This further states that the collections may be made on only one Food Stamp claim at a time and that claims are collected in the following priority order – Intentional Program Violations (IPV), Unintentional Program Violations (UPV) Client Error, and then UPV's Agency Error.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that collection action is initiated against the AG which received the overissuance. When the AG composition changes, collection is pursued against any and all AG's which include a liable debtor – adults or emancipated minors who were included in the AG when the overissuance occurred. For AGs' containing a liable debtor that are certified at the time the claim is established, collection activity may begin by recoupment. Collections may be made on only one Food Stamp (SNAP) claim at a time but must be collected in this order – IPV, UPV Client, UPV Agency – In addition, payments are credited to the oldest claim first until it is paid.
- 2) The evidence submitted in the case confirms that both the Claimant and her mother-in-law (-----) were overissued SNAP benefits. The Claimant's husband (-----) was a member of -----'s AG when her overissuance occurred. As a result, the Claimant's husband is a liable debtor in his mother's case. Furthermore, -----'s overissuance was caused by a "client error" and it is older than the Claimant's overissuance that occurred due to an agency error. Pursuant to existing SNAP repayment policy, the Department is correct in pursuing the Claimant's AG for SNAP recoupment and crediting -----'s case with payment.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's action to pursue the Claimant's AG for repayment of SNAP benefits overissued in the ----- case.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th Day of September, 2009.

**Thomas E. Arnett
State Hearing Officer**