



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Patsy Hardy, FACHE, MSN, MBA
Cabinet Secretary

September 16, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 15, 2009. Your hearing request was based on the Department of Health and Human Resources' proposal 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 SNAP (formerly 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 Stamps 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 Agency or the household, are subject to repayment. (West Virginia Income Maintenance Manual Section 20.2)

Information submitted at your hearing reveals that your household received SNAP benefits to which it was not entitled for the period of September 2005 through January 2006. Therefore, a repayment claim should be established.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish and seek collection of a SNAP claim in the amount of \$196.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

Pc: Erika H. Young, Chairman, Board of Review
Roger Kimble, Northern Repayment Unit Supervisor, DHHR

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

-----,

Claimant,

v.

Action Number: 09-BOR-1591

**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 16, 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 September 15, 2009 on a timely appeal filed July 28, 2009.

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 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

Roger Kimble, Northern Repayment Unit Supervisor, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 (formerly Food Stamp Program) claim.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 1.2, 9.1, 10 (Appendix A), 20.1 and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case comments from Rapids computer system dated August 22, 2005
- D-2 Letter to Claimant from Jan Kiser dated May 13, 2009
- D-3 Letter from Claimant to Jan Kiser
- D-4 Case comments from Rapids computer system dated February 4, 2009
- D-5 Case comments from Rapids computer system dated June 15, 2009
- D-6 Food Stamp Claim Determination form and Rapids computer system information concerning allotments and disbursements
- D-7 Unemployment Compensation Income information
- D-8 West Virginia Income Maintenance Manual Section 20.2
- D-9 Notification of SNAP Over Issuance sent to ----- dated July 14, 2009

VII. FINDINGS OF FACT:

- 1) The Claimant's girlfriend, ----- (now -----) was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits. The SNAP Assistance Group included -----, the Claimant, and their two children. In August 2005, ----- reported that the Claimant had left her household (as documented in Exhibit D-1).
- 2) On or about May 1, 2009, the Claimant informed the Department that he had continued to reside with ----- and was not included in her SNAP benefits. State Repayment Investigator Jan Kiser sent the Claimant a letter on May 13, 2009 (D-2), requesting verification of the Claimant's income and lease information for the period of August 2003 through January 2009. The Claimant sent a written response (D-3) and provided information concerning his income and the couple's residence history.
- 3) State Repayment Investigator Karen Crossland verified that the Claimant had been receiving Unemployment Compensation Income (D-7) during the time he resided with ----- and, as a result, the case was over issued \$196 in SNAP benefits for the period of September 2005 through January 2006. Calculations are provided in Exhibit D-6.
- 4) ----- (now -----) was notified of the over issuance and proposed benefit repayment in a letter dated July 14, 2009 (D-9).

- 5) The Claimant testified that he did not sign any of ----' SNAP applications or the associated client Rights and Responsibilities. He contended that he should not be liable for the debt since he did not apply for the SNAP benefits.
- 6) West Virginia Income Maintenance Manual Chapter 20.2 (D-8) states that when an 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 [emphasis added].
- 7) West Virginia Income Maintenance Manual Chapter 20.2, C (D-8) states that SNAP repayment claims can be established based on either Agency or client errors.
- 8) West Virginia Income Maintenance Manual Section 1.2, E states that it is the client's responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.
- 9) West Virginia Income Maintenance Manual Section 20.2 E (D-8) states that an unreported adult who would have been required to be in the Assistance Group had he been reported is considered to be a liable debtor in a SNAP repayment claim. Collection is pursued against any and all Assistance Groups which include a liable debtor. Individuals considered as liable debtors are equally liable for the total amount of the overpayment.
- 10) West Virginia Income Maintenance Manual Section 9.1, A, 2 states that natural or adopted children under age 22 who live with their parents must be included in the same Assistance Group with their parents.

VIII. CONCLUSIONS OF LAW:

- 1) Policy regarding benefit repayment states that a client error occurs when the client fails to provide accurate or complete information so that his/her eligibility for SNAP benefits can be determined. A Department error occurs when a worker fails to take prompt action in regard to changes in case circumstances.
- 2) The Claimant did not dispute that he resided in his girlfriend's household during the period of September 2005 through January 2006 and did not challenge the Department's income calculations for that period. While he did not sign SNAP applications or Rights and Responsibilities during this time period, policy holds that he must be considered a liable debtor in the overpayment claim because he would have been required to be in the Assistance Group had he been reported in the household.
- 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 Agency's proposal to establish and seek collection of a SNAP repayment claim of \$196.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 16^h Day of September, 2009.

**Pamela L. Hinzman
State Hearing Officer**