



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 25, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 21, 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 confirms that you are a liable debtor. As a result, the Department is authorized to pursue you for repayment of SNAP benefits.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to establish and seek collection of a SNAP claim against you in the amount of \$919.

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,

v.

Action Number: 09-BOR-1731

**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 25, 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 21, 2009 on a timely appeal filed August 17, 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

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 Benefit Recovery Referral accompanied by Case Comments from RAPIDS
- D-2 Notification of Supplemental Nutrition Assistance Program Overissuance, dated June 3, 2009
- D-3 Repayment reminder notice, dated August 4, 2009
- D-4 Claimant's request for a hearing, received August 17, 2009
- D-5 WV Income Maintenance Manual, Chapter 20.1 & 20.2

Claimant's Exhibits:

- C-1 Final Order of Divorce, Civil Action No. [REDACTED] Entered on April 23, 2009

VII. FINDINGS OF FACT:

- 1) The Department submitted evidence to indicate that a claim was established against the Assistance Group, which included the Claimant, subsequent to an Administrative Disqualification Hearing decision rendered on May 27, 2009 confirming that ----- committed an Intentional Program Violation.
- 2) The Department notified the Claimant of the \$919 Supplemental Nutrition Assistance Program (SNAP) overissuance in a notification letter dated June 3, 2009 (D-2). This notice advised the Claimant that the overpayment of SNAP benefits occurred during the period June 19, 2008 to September 30, 2008. The Claimant was again notified/reminded that payment on the overissuance is required on the balance of \$919 in a letter date August 4, 2009 (D-3).
- 3) The Claimant purported that he was not aware his ex-wife was receiving SNAP benefits during the period the overissuance occurred. He reported that this was not out of character for her as she has attempted to apply for a credit card and buy a vehicle using his name. The Claimant submitted Exhibit C-1 to show that he is now divorced from -----.

- 4) The Claimant originally reported that he was not residing with his ex-wife during the period of the overpayment (See Exhibit D-1, page 3), however, he acknowledged during the hearing that he was residing with his ex-wife and this is confirmed in Exhibit C-1, Finding of Fact #4 – “The parties last lived and cohabitated together in [REDACTED] County, West Virginia on the 16th day of October, 2008.”
- 5) 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.
- 6) 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
- 7) 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 and even adults who were not, but should have been included in the AG.

VIII. CONCLUSIONS OF LAW:

- 1) The regulations that govern SNAP state that when an AG has been issued more 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. Collection action is initiated against the AG which received the overissuance and all liable debtors.
- 2) By an Administrative Disqualification Hearing decision rendered on May 27, 2009, ----- was found to have committed an Intentional Program violation and as a result, a SNAP repayment claim in the amount of \$919 was established. The Claimant was residing in the household with his ex-wife during the period in which the overissuance occurred.

- 3) Pursuant to existing policy, the Claimant is a liable debtor, and therefore, the Department is correct in its action to pursue the Claimant for the \$919 overissuance that occurred while he was residing with -----.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to pursue the Claimant for repayment of \$919 SNAP benefits overissued while he was a member in -----'s AG.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 25th Day of September, 2009.

**Thomas E. Arnett
State Hearing Officer**