



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 4, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 23, 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 has been issued more 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 Agency or the household, are subject to repayment. (West Virginia Income Maintenance Manual ' 20.2 & 7 CFR ' 273.18 - Code of Federal Regulations).

The information submitted at your hearing reveals that the Agency incorrectly calculated household income at the time of your redetermination/application in September 2009. As a result, you were overissued \$331 in SNAP benefits during the period August 2008 through October 2008.

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 \$331 for the period August 2008 through October 2008.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Karen Crossland, SRI

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

-----,

Claimant,

v.

Action Number: 08-BOR-2367

**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 March 4, 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 February 23, 2009, on a timely appeal filed October 28, 2008.

II. PROGRAM PURPOSE:

The program entitled **Supplemental Nutrition Assistance Program (SNAP)** is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

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 wife

Karen Crossland, SRI, DHHR

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 ' 10.4 & 20.2.
7 CFR ' 273.18 - Code of Federal Regulations.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

Exhibit-1 SNAP Claim Determination and Computation Sheets
Exhibit-2 Verification of income
Exhibit-3 WV Income Maintenance Manual, Chapter 1.2
Exhibit-4 WV Income Maintenance Manual, Chapter 20

VII. FINDINGS OF FACT:

- 1) The Department presented evidence to indicate the Claimant completed an application for Supplemental Nutritional Assistance Program (SNAP) benefits in the [REDACTED] County Department of Health and Human Resources Office on September 8, 2008. The Department contends that the only income reported at the time of application was the Claimant's Social Security income and child support for -----, the Claimant's son.
- 2) The Department completed a review of the case and determined that the Claimant's son receives Social Security income in the amount of \$636 per month. This additional income makes the household ineligible for SNAP benefits. As a result, the Department submitted Exhibit-1 (SNAP Claim Determination and Computation Sheets) and Exhibit-2 (Verification of income) to show that during the period August 2008 through October 2009, the Claimant's household received \$331 in SNAP benefits for which they were not legally entitled.
- 3) The Claimant indicated that he reported all of his household income to the worker but that the worker must have manipulated the income in order to assist him with eligibility. He did not ask for that to occur although he acknowledged the SNAP benefits were very helpful. He did not, however, wish to do anything dishonest in order to qualify for SNAP benefits.
- 4) The Department's Repayment Investigator testified that the Department is pursuing repayment for overissued SNAP benefits on the basis of an Agency error. The Department is not alleging that the Claimant intentionally provided false and/or misleading information and is pursuing the repayment based on a Client Error - Unintentional Program Violation (UPV).

- 5) West Virginia Income Maintenance Manual §1.2.E, states in pertinent part: The Client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility. When the client is not able to provide the required verification, the worker must assist him. The client must be instructed that his failure to fulfill his obligation may result in – Repayment of benefits.
- 6) West Virginia Income Maintenance Manual ' 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 ' 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 ' 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 Claimant's monthly household income was incorrectly recorded in his SNAP case resulting in a \$331 overpayment in SNAP benefits for the period August 2008 through October 2008. The overpayment is the result of an Unintentional Program Violation (UPV) based on a Client Error.
- 2) In accordance with Chapter 20 of the 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 Agency's proposal to establish and seek collection of a SNAP repayment Claim is therefore affirmed.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the Agency=s proposal to establish and seek repayment of a SNAP Claim against the Assistance Group in the amount of \$331 for the period August 2008 through October 2008.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 4th Day of March, 2009.

**Thomas E. Arnett
State Hearing Officer**