



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

January 30, 2009

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 15, 2009. Your hearing request was based on the Department of Health and Human Resources' proposal to establish a repayment claim against your household for benefits received through the Supplemental Nutrition Assistance Program (SNAP and/or Food Stamp).

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 the SNAP Program is based on current policy and regulations. Some of these regulations state that when an assistance group has been issued more Food Stamp 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).

The information submitted at your hearing reveals that a Client error resulted in you receiving Food Stamp benefits for an assistance group of three (3) during the period May 1, 2008 through September 30, 2008 when your benefits for this period should have been issued based on an assistance group of one (1). As a result, you received \$1320 in Food Stamp (SNAP) benefits for which you were not eligible.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish and seek collection of a SNAP (Food Stamp) repayment claim in the amount of \$1320 for the period May 1, 2008 through September 30, 2008.

Sincerely,

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

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

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

_____,

Claimant,

v.

Action Number: 08-BOR-2449

**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 January 30, 2008 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 January 15, 2009 on a timely appeal filed November 14, 2008.

II. PROGRAM PURPOSE:

The program entitled Supplemental Nutritional Assistance Program (SNAP/Food Stamps) 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 Food Stamp 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
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 or not the Department is correct in its proposal to establish and seek repayment of a Food Stamp Claim for the period May 1, 2008 through September 30, 2008.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual ' 9.1, 10.4 & 20.2.
7 CFR ' 273.18 - Code of Federal Regulations.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 SNAP Claim and Determination and Computation Sheets
- D-2 School Clothing Allowance Claim Determination and Computations Sheets
- D-3 Income Maintenance Manual Section 9.1
- D-4 Income Maintenance Manual, Chapter 20

VII. FINDINGS OF FACT:

- 1) The evidence reveals that in April 2008, the Claimant contacted the Department and reported that she was living with her mother and two children. Her two children were added to her existing Food Stamp case effective May 2008.
- 2) The Department's Income Maintenance division received information from Child Protective Services indicating that the Claimant's mother had adopted the two children in 2006. As a result, the children were removed from the Claimant's Food Stamp case effective October 2008. It should be noted that while the Department was also pursuing repayment of \$200 through the School Clothing Allowance (SCA) Program, the determination was made the August 8, 2008 \$200 SCA voucher was never redeemed. The Department indicated in correspondence dated January 15, 2008 that this matter has been resolved – the Claimant does not owe the \$200 SCA repayment amount initially proposed.
- 3) The Claimant acknowledged that her mother adopted her two minor children but states that she was residing with her mother in her house. Her mother works a lot of hours driving a bus and because her mother would eat out a lot, she was feeding the children and thought that she should be eligible for additional Food Stamp benefits. She stated that she checked with her case worker at the Department and believed she was eligible.

- 4) The Department submitted WVIMM Policy Manual, Chapter 9.1, which states – Children under the age of 18 who live with and are under the parental control of an adult AG [assistance group] member who is not a parent, must be in the same AG as the member who exercises parental control. Policy goes on to state – Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as that parent.

In this case, the two children in question must be included in the same AG as their adoptive mother and cannot be included in the Claimant's Food Stamp / SNAP AG.

- 5) West Virginia Income Maintenance Manual ' 20.2:
When an AG (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.
- 6) 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) Policy provides that when there has been an overissuance of Food Stamp benefits, corrective is taken by establishing either an Unintentional Program Violation (UPV) or an Intentional Program Violation (IPV).
- 2) There are two types of UPV's - an error by the Department, or an unintentional error made by the client.
- 3) The evidence submitted in this case reveals that two (2) AG members were erroneously added to the Claimant's Food Stamp case effective May 1, 2008. This Client Error resulted in a Food Stamp overissuance in the amount of \$1320 for the period May 1, 2008 through September 30, 2008.
- 4) The evidence reveals that the Department has acted within policy guidelines in proposing repayment of Food Stamp / SNAP benefits. 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.

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 Food Stamp / SNAP claim in the amount of \$1320 against the Claimant for the period May 1, 2008 through September 30, 2008.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 30th Day of January, 2009.

Thomas E. Arnett
State Hearing Officer