



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 9, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 19, 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 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 Department failed to take action after being notified of an increase in your SSI (Supplemental Security Income) by an automated income update from the Social Security Administration in March 2008. Because your increased household income was not updated in your case, you received \$422 in SNAP benefits during the period April 2008 through November 2008 to which you were not legally entitled. This was clearly an Agency error, however, all overpayments, regardless of fault, are subject to repayment.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish and seek collection of a SNAP repayment claim in the amount of \$422 for the period April 2008 through November 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-2620**

**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 9, 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 19, 2009 on a timely appeal filed December 17, 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 Spouse

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 Department is correct in its proposal to establish and seek repayment of a SNAP (Food Stamp) 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 Income verification  
Exhibit-3 WV Income Maintenance Manual, Chapter 20

#### **VII. FINDINGS OF FACT:**

- 1) On or about December 9, 2008, the Claimant was notified via a Notification of Supplemental Nutrition Assistance Program (SNAP) Overissuance that she received \$422 in SNAP benefits she was not eligible to receive. This notice states, in pertinent part:

We have determined that you were issued more SNAP benefits than you were eligible to receive during the period 4/1/09 to 11/30/09 because of unearned income.

This notice goes on to indicate that the \$422 overissuance is the result of an Agency Error.

- 2) The evidence reveals that the Department received a "mass update" from the Social Security Administration in March 2008 advising that the Claimant's SSI (Supplemental Security Income) had increased. For reasons unexplained during the course of the hearing, the Department failed to act on the information provided and the Claimant's income was not immediately changed to reflect the increase. The Claimant's case was subsequently reviewed in November 2008 and the income was updated. The Department concedes that the overpayment of SNAP benefits was the result of an agency error, however, federal law requires that all overpayments, regardless of fault, are subject to repayment.
- 3) The Claimant purported that she phoned her worker when her income went up. She also reported her income when a Department worker came to her home. She contends that in addition to Social Security's notification of her increase in income, she reported the increase in her income on two separate occasions. It is for these reasons that the Claimant believes she should not be responsible for repaying the \$422 in SNAP benefits that she was overpaid.

- 4) 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.
- 5) 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.
- 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) The evidence reveals that the Claimant's monthly household income (SSI) was not updated during an automated mass change in March 2008 resulting in a \$422 overpayment in SNAP benefits for the period April 2008 through November 2008. The overpayment is the result of an Unintentional Program Violation (UPV) based on an Agency 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 \$422 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 \$422 for the period April 2008 through November 2008.

#### **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 9<sup>th</sup> Day of March, 2009.**

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**Thomas E. Arnett  
State Hearing Officer**