



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

Martha Yeager Walker
Secretary

June 11, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 10, 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 you.

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 Chapter 20.2)

Information submitted at your hearing reveals that your mother received SNAP benefits for you to which she was not entitled for the period of September 2008 through March 2009. Although you were not residing with your mother during that period, you have been determined to be a liable debtor as you were included as an adult member of the assistance group. 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 \$986.

Sincerely,

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

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

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

-----,

Claimant,

v.

Action Number: 09-BOR-907

**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 June 11, 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 via videoconference on June 10, 2009 on a timely appeal filed March 31, 2009.

II. PROGRAM PURPOSE:

The **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 food coupons 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 grandmother

Karen Crossland, Repayment Investigator, 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, 20.1 and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp Claim Determination form and Rapids computer system information concerning allotments and disbursements
- D-2 West Virginia Income Maintenance Manual Section 1.2 E
- D-3 Case comments from Rapids computer system
- D-4 West Virginia Income Maintenance Manual Section 20.2E
- D-5 West Virginia Income Maintenance Manual Sections 20.1 and 20.2

Claimant's Exhibits:

- C-1 Claimant's court documentation from State of [REDACTED]

VII. FINDINGS OF FACT:

- 1) The Claimant's mother, [REDACTED] completed an application for the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamps, and Medicaid for the Claimant on September 8, 2008 at the [REDACTED] County DHHR Office.
- 2) On March 4, 2009, the Claimant applied for SNAP benefits at the [REDACTED] County DHHR Office, reporting that he was living with his grandfather and had not resided with his mother in more than 10 years. This information is noted in Exhibit D-3, case comments from the Rapids computer system dated March 4, 2009. As a result of this information, the Claimant was removed from his mother's SNAP case effective April 2009.
- 3) The State Repayment Investigator testified that the Claimant's inclusion in his mother's SNAP case resulted in a \$986 over issuance of SNAP benefits for the months of September 2008 through March 2009. Overpayment calculations are documented in Exhibit D-1.
- 4) The Claimant, now 19 years old, testified that he has not seen his mother since he was 15 years old. He stated that he had been incarcerated in the State of [REDACTED] and provided a court document (C-1) in support of his whereabouts. He stated that he has resided with his grandparents in [REDACTED] County since December 2008.

The Repayment Investigator testified that the Claimant is considered a liable debtor and policy contains no provision to exempt individuals from repayment liability because they were unaware of their inclusion in a SNAP assistance group.

- 5) West Virginia Income Maintenance Manual Chapter 20.2 (D-5) 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].
- 6) West Virginia Income Maintenance Manual Chapter 20.2, C (D-5) states that there are two types of Unintentional Program Violations- client errors and agency errors. A UPV is established when:
 - An error by the Department resulted in the over issuance.
 - An unintentional error made by the client resulted in the over issuance

This section states that Agency errors include failure to take prompt action and computation errors. Client errors occur when the client fails to provide accurate or complete information.

- 7) West Virginia Income Maintenance Manual Chapter 20.2E (D-4) states:

COLLECTING THE CLAIM

Collection action is initiated against the AG (assistance group) which received the overissuance. When the AG composition changes, collection is pursued against any and all AG's [sic] which include a liable debtor.

The following persons are equally liable for the total amount of the overpayment and are liable debtors:

- Adult or emancipated minors in the AG
- Disqualified individuals who would otherwise be required to be included
- An unreported adult who would have been required to be in the AG had he been reported
- Sponsors of alien AGs when the sponsor is responsible for the overpayment
- An authorized representative of an AG if he is responsible for the overpayment

VIII. CONCLUSIONS OF LAW:

- 1) Policy regarding benefit repayment 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]. Adult members of the assistance group are equally liable for the total amount of the overpayment.

- 2) While the Claimant testified that he had not resided with his mother for many years, he was incorrectly included in her SNAP benefit assistance group, resulting in an overpayment. As an adult member of the assistance group, he is equally liable for the overpayment.
- 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 \$986.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 11th Day of June, 2009.

Pamela L. Hinzman
State Hearing Officer