



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General**

**Joe Manchin III  
Governor**

**Board of Review  
P.O. Box 1736  
Romney, WV 26757**

**Patsy A. Hardy, FACHE, MSN, MBA  
Cabinet Secretary**

July 30, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 27, 2010. 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 SNAP, formerly Food Stamp Program is based on current policy and regulations. These regulations provide 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 Department or the household, are subject to repayment. (West Virginia Income Maintenance Manual Chapter 20.2)

The information which was submitted at your hearing revealed that you received SNAP benefits in which you were not entitled from October 2009 through February 2010 as the result of an unintentional client error. Therefore, a repayment claim should be established.

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 in the amount of \$1661.00.

Sincerely,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Lori Woodward, RI

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

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**Respondent,**

**v.**

**Action Number: 10-BOR -1512**

**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 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 July 27, 2010 on a timely appeal, filed June 22, 2010.

It shall be noted that the hearing was originally scheduled for July 15, 2010 and rescheduled based on a request from the Respondent.

**II. PROGRAM PURPOSE:**

The purpose of the Supplemental Nutrition Assistance Program (SNAP) 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:**

-----, Respondent

-----, Respondent's husband

Lori Woodward, Repayment Investigator

Presiding at the Hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

**IV. QUESTION 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 SNAP (formerly Food Stamp Program) claim.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Section 20.2

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Hearing Request dated June 22, 2010
- D-2 Hearing/Grievance record Information (IG-BR-29)
- D-3 West Virginia Income Maintenance Manual Chapter 20.2
- D-4 Individual Participation History for Medicaid Screen Printout
- D-5 Case comments dated May 5, 2009
- D-6 Rights and Responsibilities dated May 5, 2009
- D-6a Case comments dated August 17, 2009 and Rights and Responsibilities dated August 17, 2009
- D-7 Case comments dated August 25, 2009
- D-8 West Virginia Income Maintenance Manual Chapter 2.4
- D-9 West Virginia Income Maintenance Manual Chapter 2.2
- D-10 Food Stamp Claim Determination form

**VII. FINDINGS OF FACT:**

- 1) The Respondents who were recipients of Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, benefits completed an initial application for Medicaid on May 5, 2009. As part of the application for benefits, the Respondent completed Exhibit D-6, Rights and Responsibilities, this exhibit documents in pertinent part:

I agree to notify DHHR of the following changes within 10 days if:

- A) We move and/or change our address, name, or telephone number
- B) There are changes in my shelter cost because I have moved;
- C) Anyone obtains/loses employment;
- D) There are changes in my household's amount or source of unearned income;
- E) There are changes in my household's amount or source of earned income or number of hours worked;
- F) Anyone moves into/out of my household;
- G) Any individual in my home starts, finishes, or drops out of school or job training;
- H) There are changes in my household's assets, including receiving, selling, purchasing, or losing a vehicle, including recreational vehicles and equipment;

- I) Anyone in my household receives a lump sum payment because this may affect our eligibility for continuing benefits and I may be expected to live on this income for a specific period of time

For SNAP Benefits Only: These requirements do not apply. My reporting requirements were explained in the SNAP program section.

The Respondent and her husband checked marked this section of the form affirming their understanding of such requirements.

- 2) The Respondent and her husband were interviewed separately- on August 17, 2009 and August 25, 2009 respectively-for a Medicaid redetermination at which time they each completed and signed the Rights and Responsibilities form (Exhibit D-6a) affirming their knowledge of the requirement to report any household changes, such as change in employment.
- 3) On January 26, 2010, the Respondent and her husband completed a SNAP redetermination in which they reported that the Respondent secured employment on August 19, 2009. Lori Woodward, Repayment Investigator testified that the Respondent and her husband were required reporters, as they were receiving Medicaid. Ms. Woodward indicated that the household was required to report such income by August 29, 2009 to affect their October 2009 SNAP benefits.
- 4) The Department requested an Administrative Disqualification Hearing in March 2010 to determine whether or not the failure of the Respondent to report her employment income at a prior SNAP redetermination could be considered an Intentional Program Violation. Through such process, it was determined that the Respondent did not intentionally mislead the Department in an effort to secure SNAP benefits in which she was not entitled.
- 5) Ms. Woodward submitted Exhibit D-10, Food Stamp Claim Determination form, documenting that due to client error, the Respondent received a total SNAP benefit over issuance for the periods of October 2009 through February 2010 in the amount of \$1661.00.
- 6) The Respondent testified that there was a major source of confusion between what is to be reported for Medicaid benefits as opposed to SNAP benefits. The Respondent indicated that the Economic Service Worker who assisted the household in completing all applications for SNAP benefits informed the household that she was only required to report changes in her circumstances when her income exceeded a certain amount. The Respondent estimated that the amount she was informed was \$2200.00. The Respondent stated that her initial employment was considered part-time employment and she was employed at the current minimum wage rate. The Respondent stated that her income did not exceed the limits that she was informed of at her applications and redeterminations and did not report such income. The Respondent does not believe that a repayment is warranted when the household income failed to exceed the established limits. The Respondent's husband testified that the household did not want to come in and apply for assistance but was forced to when their situation became dire. The Respondent's husband indicated that they were not trying to fraud the Department to obtain additional SNAP benefits.
- 7) West Virginia Income Maintenance Manual Chapter 20.2 states in pertinent part:

When an AG 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 coupon entitlement of the AG and the coupon allotment the AG was entitled to receive.

There are two types of Unintentional Program Violations-Agency Errors and Client Errors. A UPV is established when:

- An error by the Department resulted in the overissuance [sic]
- An unintentional error made by the client resulted in the overissuance [sic]
- It is determined by court action or ADH the client did not commit an IPV. The claim is pursued as a UPV.

8) West Virginia Income Maintenance Manual Chapter 2.4 states in pertinent part:

Medicaid

All changes in the client's circumstances such as, but not limited to, income, assets, household composition and change of address must be reported.

Changes are reported as soon as possible after the client becomes aware of them. This allows the agency to make a change and allows for advance notice, if the reported information results in an adverse action.

9) West Virginia Income Maintenance Manual Chapter 2.2 states in pertinent part:

REPORTING REQUIREMENTS

All SNAP AG's must report changes related to eligibility and benefit amount at application and redetermination. SNAP AG's are subject to Limited Reporting requirements and the reporting requirements in this Section apply to recipient AG's only.

The reporting requirements for SNAP recipients are only for SNAP benefits and do not affect the reporting requirements of any other program of assistance that the AG also receives.

Limited Reporting

Once approved, all AG's must report when the total gross earned and unearned income of the AG and all other individuals who reside with the AG exceed the AG's gross income limit.

Changes acted on For SNAP AG's

Information Verified Upon Receipt

Action must be taken for all AG's when information is received from a source that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the primary source of the information. The only sources considered verified upon receipt are:

- BENDEX and SDX from SSA
- COLA Mass Change and reports in Appendix B
- SAVE from INS and 40 Qualifying Quarters information from SSA
- Unemployment Compensation from WV BEP data exchange
- Workers' Compensation from WV Workers' Compensation
- SNAP E&T's information that a client did not comply with work requirements
- IFM's determination of an IPV
- Notification of application for benefits in another state data exchange

#### Changes Which are Considered Reported

The following are considered reported changes for SNAP and require follow up and/or action for all AG's.

- Communication from an AG member, such as an office visit, telephone call or written statement to report a change for any program of assistance in RAPIDS; or
- Communication from the AG's documented authorized representative and/or authorized EBT cardholder on behalf of the AG. See Sections 1.4 E and 1.4 T. This does not include SSI/RSDI payees, unless they are also the authorized representative or EBT cardholder.
- Changes reported during an application for burial assistance or an application or redetermination for any program of assistance, including SNAP benefits, which is entered in RAPIDS and includes an AG member.
- Information received on behalf of a client that result in changes being made in RAPIDS for another program of assistance.

### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy regarding benefit repayment states that an Unintentional Program Violation occurs when a client makes an unintentional error that resulted in the over issuance of SNAP benefits.

- 2) Policy dictates that Medicaid recipients are required to report all changes in their circumstances. These changes include income, assets, household composition and change of address.
- 3) Policy dictates that SNAP recipients are only required to report income when the total amount of income exceeds the gross income limit.
- 4) The Respondent, as a recipient of SNAP benefits was required to report total income when such income exceeded the established gross income limit as set forth by policy. However, policy stipulates that Medicaid recipients must report all changes in their circumstances including but not limited to income. Reported changes for another program of assistance, such as Medicaid, must additionally be acted upon for SNAP purposes and the benefit amount adjusted accordingly. As the Respondent was a current recipient of Medicaid benefits, she was required to report all changes in her household circumstances at the point in which she became aware of such change. The unintentional error of the Respondent, of failing to report her income in a timely manner, resulted in an overpayment of SNAP benefits; therefore the Department's proposal to establish and seek collection of a repayment claim based on an unintentional error made by the client is affirmed.

**IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the Department's proposal to establish and seek collection of a SNAP repayment claim of \$1661.00.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Respondent's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ day of July 2010.**

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**Eric L. Phillips  
State Hearing Officer**