



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

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

October 28, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 20, 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. 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 you received SNAP benefits to which you were not entitled as the result of an Agency error. 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 \$1,200.

Sincerely,

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

Cc: Erika H. Young, Chairman, Board of Review
Marshall Daniels, Repayment Investigator, DHHR

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

-----,

Respondent,

v.

Action Number: 10-BOR-1901

**West Virginia Department of
Health and Human Resources,**

Movant.

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 convened on October 20, 2010 on a timely appeal filed September 7, 2010.

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
Marshall Daniels, Repayment Investigator, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION 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 Chapters 9.1 and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case comments dated February 9, 2010 and April 15, 2010
- D-2 Benefit Recovery Referral
- D-3 Verification of Student Employment from [REDACTED] College dated August 5, 2009
- D-4 Verification of Student Employment from [REDACTED] College dated February 9, 2010
- D-5 West Virginia Income Maintenance Manual Chapter 9.1, 2, f, (2)
- D-6 Food Stamp Claim Determination for February 2010 through July 2010
- D-7 Notice of over issuance sent to Respondent on September 3, 2010
- D-8 Case comments dated September 7, 2010
- D-9 Financial aid information from [REDACTED] (dated October 15, 2010)
- D-10 West Virginia Income Maintenance Manual Chapter 20.2

Respondent's Exhibits:

- R-1 [REDACTED] College Award Package by Aid Year 2009-2010
- R-2 Electronic Mail Transmission dated May 10, 2007 between [REDACTED] and [REDACTED]
- R-3 Electronic Mail Transmission dated February 11, 2010 between [REDACTED] and [REDACTED]

I. FINDINGS OF FACT:

- 1) The Respondent received Supplemental Nutrition Assistance Program (SNAP) benefits, formerly Food Stamps, during the period of February 2010 through July 2010.
- 2) DHHR Repayment Investigator Marshall Daniels indicated that the Department approved the Respondent for benefits in error as he was an ineligible college student.
- 3) The Repayment Investigator testified that the Respondent should have received zero SNAP benefits for the period of February 2010 through July 2010 because he was not receiving College Work Study and was not employed at least 20 hours per week, as verified in Verification of Student Employment statements from [REDACTED] College (D-3 and D-4). The Respondent was reportedly working two hours per week under the Workshop Program at the college. Information concerning the Workshop Program is included in Exhibit D-9.

- 4) As a result of the Agency error, the Respondent received a \$1,200 SNAP over issuance. Calculations are documented in Exhibit D-6, a Food Stamp Claim Determination.
- 5) The Department sent the Respondent a letter on September 3, 2010 (D-7) advising him of the over issuance and the proposed claim against the household.
- 6) The Respondent testified that he was eligible for Federal Work Study (R-1), however it was cancelled because he had received a scholarship. He believes he should not be penalized because he qualified for an academic scholarship.

The Repayment Investigator testified that a claim must be established regardless of whether the error is considered an Agency or client error. He indicated that - although the Respondent had reported the correct information and was not at fault - there are no policy exceptions to dismiss SNAP claims.

- 7) West Virginia Income Maintenance Manual Chapter 9.1, 2, f, (2) (D-5) provides the following information regarding student eligibility for the SNAP:

Students Eligible to Participate

Students who meet one or more of the following criteria are eligible to participate, provided all other eligibility factors are met:

- The student is employed at least 20 hours per week or 80 hours a month, and is paid for the employment.

Unlike normal work registration, a student cannot substitute wages equivalent to 20 times the minimum hourly wage, but must actually work at least 20 hours a week or 80 hours a month, regardless of the amount of wages. However, self-employed persons must be employed at least 20 hours per week or 80 hours a month, and receive weekly earnings at least equal to the federal minimum wage multiplied by 20 hours or monthly earnings equal to the federal minimum wage multiplied by 80 hours.

- The student is participating in a state- or federally-financed CWS program during the regular school year. Participation means that the student has been approved for CWS during the school term and anticipates actually working during that time. To qualify for this exception, the student must be approved for CWS at the time of application. The exception begins with the month in which the school term begins or the month CWS is approved, whichever is later. Once begun, the exception continues until the end of the month in which the school term ends, or it becomes known that the student refused an assignment. The exception is lost between school terms when there are breaks of a full month or longer for which CWS has not been approved.

- The student is included in a WV WORKS payment.

- The student is assigned to or placed in an institution of higher education through one of the following. The exception is lost during summer breaks or any other time the student is not in school. The individual's status need not be mandatory for the exception to apply.

The SNAP Employment and Training Program (SNAP E&T)

Workforce Investment Act (WIA)

Section 236 of the Trade Act of 1974

An employment and training program for low-income households that is operated by a state or local government when one or more of the program's components is at least equivalent to SNAP E&T.

- The student has the principal responsibility for the care of a child who meets certain criteria. No more than one person may be responsible for the care of each child.

- 8) West Virginia Income Maintenance Manual Chapter 20.2 (D-10) 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].
- 9) West Virginia Income Maintenance Manual Chapter 20.2, C (D-10) 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 can include failure to take prompt action and computation errors.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that a student must be receiving College Work Study or must be employed at least 20 hours per week to qualify for the SNAP, unless the student meets another listed exception. Policy regarding benefit repayment states that an Unintentional Program Violation - Agency error - occurs when a worker makes an error resulting in a SNAP over issuance.
- 2) As the Respondent is not participating in College Work Study and is not employed more than 20 hours per week, the Department erred in approving his SNAP benefits. While the SNAP

over issuance was not the fault of the Respondent, policy requires that unintentional over issuances resulting from Agency errors be repaid.

- 3) The Department's proposal to establish and seek collection of a repayment claim based on an Agency error 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 \$1,200.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 28th Day of October, 2010.

**Pamela L. Hinzman
State Hearing Officer**