



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph. D.
Secretary

December 14, 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' action to establish a SNAP repayment claim.

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 SNAP 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, Chapter 20.2).

The information which was submitted at your hearing revealed that the Department was correct in its calculation, classification and notification of a \$1400.00, agency error, SNAP repayment claim.

It is the decision of the State Hearings Officer to **uphold** the action of the Department to establish a SNAP repayment claim.

Sincerely,

Todd Thornton
State Hearings Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Cassandra Burns, Department Representative

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

-----,

Claimant,

v.

Action Number: 10-BOR-2000

**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 December 14, 2010, 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 October 28, 2010, on a timely appeal, filed September 20, 2010.

II. PROGRAM PURPOSE:

The purpose of 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 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 witness

-----, Claimant's witness

Brian Shreve, Department Representative

Presiding at the Hearing was Todd Thornton, 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 Department was correct in its establishment of a SNAP repayment claim against the Claimant.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 2.2; Chapter 3.3; Chapter 10.4; Chapter 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 SSA Benefit Details BENDEX screen prints (3 pages)
- D-2 West Virginia Income Maintenance Manual, Chapter 2.2.B.2
- D-3 West Virginia Income Maintenance Manual, Chapter 3.3.B.1
- D-4 Food Stamp Claim Determination form; Food Stamp Calculation Sheet forms; Food Stamp Allotment Determination screen prints
- D-5 West Virginia Income Maintenance Manual, Chapter 20.2.B
- D-6 Notification letter dated September 16, 2010

VII. FINDINGS OF FACT:

- 1) Brian Shreve, representative for the Department's Claims and Collections unit, testified that the Claimant was sent notification (Exhibit D-6) of a SNAP (formerly the Food Stamp program) repayment claim on or about September 16, 2010. This claim was established in response to a referral that SNAP benefits for the Claimant's case had been over issued because a Department worker failed to act on a data match alert intended to advise of an income change in the Claimant's household. The notification letter states, in pertinent part:

We have determined that you were issued more SNAP benefits than you were eligible to receive during the period 11/01/09 to 05/31/10, because of UNEARNED INCOME.

Federal law requires that a claim be established against any household that has received more benefits than it is entitled to receive. Therefore, a(n) AGENCY ERROR claim for \$1400.00 has been established against your household.

- 2) Mr. Shreve testified that a Department worker received alerts (Exhibit D-1) advising that the Claimant had started to receive Social Security income. He testified that these alerts were considered, per policy, to be "verified upon receipt," meaning that the Department is to act on the provided information without further verification, even within an established certification period.

- 3) Policy from the West Virginia Income Maintenance Manual, Chapter 2.2.B.2, states, in pertinent part:

2. Changes Acted On For SNAP AG's

a. 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

- 4) Policy from the West Virginia Income Maintenance Manual, Chapter 3.3.B.1.a, lists the Beneficiary and Earnings Data Exchange (BENDEX) as a Federal Data Exchange provided by the Social Security Administration to the Department, and states that the BENDEX information "...is considered verified upon receipt for SNAP and is not subject to independent verification for any program."
- 5) Mr. Shreve presented claim calculation forms (Exhibit D-4) to show how the Department determined an over issuance of SNAP benefits to the Claimant from November 2009 to May 2010, in the amount of \$1400.00. The forms show a seven-month period in which \$200.00 in SNAP benefits were issued monthly, and the correct entitlement would have been zero due to excessive income. -----, acting as representative to the Claimant, testified that the counted Social Security income amount was correct, and that the monthly SNAP allotment was correct.

-----noted that the calculation forms listed an incorrect rent amount for the Claimant. Mr. Shreve testified that, after a series of initial deductions, the actual shelter costs are compared to half of the income determination at that stage, and the excess is a calculated shelter deduction. Because this shelter deduction is a calculated amount, it does not match the actual rent of the Claimant.

- 6) The West Virginia Income Maintenance Manual, Chapter 10.4.B.7, explains the calculation of the shelter deduction, as follows, in pertinent part:

7. Shelter/Utility Deduction

After all other exclusions, disregards and deductions have been applied, 50% of the remaining income is compared to the total monthly shelter costs and the appropriate Standard Utility Allowance (SUA). If the shelter costs/SUA exceed 50% of the remaining income, the amount in excess of 50% is deducted.

- 7) Testimony from -----contended that the over issuance was not the Claimant's fault, and that she should not be required to repay incorrect benefits. Mr. Shreve testified that the claim was classified as an agency error claim, and that the Claimant was not to blame for the over issuance, but that a claim was required to be established.

West Virginia Income Maintenance Manual, Chapter 20.2, explains the procedures for establishing claims resulting from over issuances to an assistance group (AG), even when unintentional, as follows, in pertinent part:

20.2 SNAP CLAIMS AND REPAYMENT PROCEDURES

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

With regard to Unintentional Program Violation, or UPV claims, the West Virginia Income Maintenance Manual, Chapter 20.2.C.1, states, in pertinent part:

A UPV claim is established when:

- An error by the Department resulted in the overissuance.

- 8) The Claimant's witnesses testified that the Claimant is unable to repay the claim established by the Department because of her limited, fixed income, and her other bills.

VIII. CONCLUSION OF LAW:

- 1) The Department demonstrated that they acted correctly according to policy in the calculation, establishment, and notification of a \$1400.00 agency error SNAP claim. There was no dispute of the Department's calculation of income, monthly SNAP allotments, or corrected allotments. The derivation of a shelter deduction by the Department was correct, despite a stated argument on the Claimant's behalf that the amount did not match the Claimant's rent. Although the over issuance was not found to be the fault of the Claimant, policy requires the repayment of agency error SNAP claims, and makes no provisions for hardship. The Department was correct to establish a \$1400.00, agency error, SNAP repayment claim.

IX. DECISION:

It is the decision of the State Hearings Officer to **uphold** the action of the Department to establish a \$1400.00 SNAP claim for repayment by the Claimant.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of December, 2010.

Todd Thornton
State Hearings Officer