



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
9083 Middletown Mall  
White Hall, WV 26554

Joe Manchin III  
Governor

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

October 22, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 19, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to establish a Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp, 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 Food Stamp (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 and 7 CFR § 273.18 - Code of Federal Regulations).

Information submitted at your hearing reveals that you inadvertently provided incorrect household income when you completed your SNAP application on June 22, 2010, resulting in an overissuance of SNAP benefits in the amount of \$683. While you contend that you should not be responsible to repay overissued SNAP benefits when the Department knowingly processed your application with the incorrect income, all SNAP overpayments, whether caused by the Agency or the household, 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 (Food Stamp) repayment claim in the amount of \$683 for the period of June 22, 2010 through July 31, 2010.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

Pc: Erika H. Young, Chairman, Board of Review  
Melissa Barr, RI, DHHR

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

----- (Claimant) and ----- (Co-Claimant),

**Claimants,**

v.

**Action Number: 10-BOR-2008**

**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 Robin and ----- . 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 19, 2010 on a timely appeal filed September 28, 2010.

**II. PROGRAM PURPOSE:**

The purpose of the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp 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

-----, Co-Claimant

Melissa Barr, Repayment Investigator (RI), WVDHHR

Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Agency is correct in its proposal to establish and seek repayment of a SNAP (Food Stamp) claim.

#### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapter 1.2, 20.2 and Chapter 10, Appendix A.  
7 CFR § 273.18 - Code of Federal Regulations.

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

##### **Department's Exhibits:**

- D-1 Benefit Recovery Referral – dated June 28, 2010
- D-2 WVIMM, Chapter 1.2.E
- D-3 Combined Application and Review Form (CAF) – dated June 22, 2010
- D-4 Rights and Responsibilities (DFA-RR-1) – signed June 20, 2010
- D-5 Claimant's income verification – received June 23, 2010
- D-6 Notice of Decision – dated June 23, 2010
- D-7 WVIMM, Chapter 20.2
- D-8 WVIMM, Chapter 20.2.C
- D-9 WVIMM, Chapter 20.2.C.1.b
- D-10 WVIMM, Chapter 20.2.E
- D-11 WVIMM, Chapter 20.2.F.1.(b)
- D-12 Food Stamp Claim Determination for June and July 2010 accompanied by SNAP Program Benefit Worksheet (Gross Income Test)
- D-13 WVIMM, Chapter 10, Appendix A

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

- 1) On or about September 22, 2010, the Claimants were notified of the Supplemental Nutrition Assistance Program (SNAP) overissuance. 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 6/22/10 to 7/31/10 because of WAGES/SALARIES-UNREPORTED/INCORRECT.

This notice goes on to indicate that a Client Error claim for \$683 has been established against the Claimants' household.

- 2) Melissa Barr, a Repayment Investigator (RI) for the Department of Health and Human Resources, hereinafter Department, presented evidence to indicate the Claimant verified that her gross monthly household income was \$250 when the application was completed on June 22, 2010 (see Exhibit D-3 and D-6). Because household income met the expedited SNAP policy guidelines, benefits were immediately issued in the Claimant's case for June and July 2010.
- 3) On June 23, 2010, the Claimant verified actual gross household income to be \$2,163.01 (Sidney's earned income \$1801.82 + child support/unearned income \$361.19). The determination was made that the Claimants' monthly gross household income exceeds the maximum allowable income for participation in SNAP and on June 28, 2010, a Benefit Recovery Referral (D-1) was forwarded to Ms. Barr reporting the \$683 overpayment for June and July 2010.

Comments on the Benefit Recovery Referral state:

CLIENT IS OVER INCOME FOR SNAP. SHE HAD PROVIDED THE WRONG PAYS. THE PAY THAT WAS PROVIDED WAS FOR HER DAUGHTER THAT DOES NOT LIVE IN THE HOUSEHOLD AND NOT HER HUSBANDS. SHE TURNED IN THE CORRECT INCOME THEY ARE OVER.

- 4) The Claimants purported that their daughter does not reside with them but was working at the church with the Co-Claimant on a temporary basis. When the Claimant left her home for the Department, her daughter's pay stubs were lying on the table next to the Co-Claimant's and she inadvertently picked the wrong pay stubs up off the table. The Claimant testified that the worker was aware on June 22, 2010 (the day of application) that the incorrect income was provided because she caught it when she went to make copies. The Claimant contends that the application should never have gone through with her daughter's income as she had agreed to return with the Co-Claimant's pay stubs. It should be noted that the Co-Claimant's verified earnings (D-5) were received by the Department on June 23, 2010.
- 5) The Department contends that the Claimant committed an Unintentional Program Violation (UPV) and that there was no intent to misrepresent her situation, but the Claimant signed the Combined Application Form (D-3) indicating the information provided was correct (see income amount on page 9). In addition, the Claimant signed the Rights and Responsibilities (D-4) that state, in pertinent part - #48 "I understand, that I may be required to repay any benefits paid to me or on my behalf for which I was not eligible because of unintentional errors made by me or by DHHR." Pursuant to WVIMM, Chapter 1.2.E, it is the client's responsibility to provide information about his/her circumstances so the worker is able to make a correct decision about eligibility.

- 6) Exhibit D-5 includes the Co-Claimant's income that should have been used at the time of application and has been used to calculate the Food Stamp Claim Determination (D-12). The Department submitted evidence to indicate gross household income, at the time of application, was \$2,163.01. Pursuant to WVIMM, Chapter 10, Appendix, the maximum allowable gross income for an Assistance Group of three (3) is \$1,984. As a result, the Claimant's household was not eligible to receive the \$683 in SNAP benefits issued to them in June and July 2010.
- 7) West Virginia Income Maintenance Manual, Chapter 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.
- 8) West Virginia Income Maintenance Manual, Chapter 20.2:  
When an AG (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.
- 9) West Virginia Income Maintenance Manual, Chapter 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) Evidence reveals that the Claimant inadvertently provided incorrect income information when she completed an application for SNAP benefits on June 22, 2010. The Claimant's testimony indicating the Department worker was aware the incorrect household income was used to issue SNAP benefits is credible. This information, however, serves only to show that the overissuance is the result of an Agency error. The fact remains that the assistance group was issued \$683 in SNAP benefits to which it was not entitled.
- 2) Pursuant to policy found in Chapter 20 of the West Virginia 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 Department's proposal to establish and seek collection of the repayment claim based on an Agency error is affirmed.

**IX. DECISION:**

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 \$683 for the period of June 22, 2010 through July 31, 2010.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ Day of October, 2010.**

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**Thomas E. Arnett  
State Hearing Officer**