



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
203 East Third Avenue  
Williamson, WV 25661

Joe Manchin III  
Governor

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

July 16, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 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 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 the Supplemental Nutrition Assistance Program (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 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 the Department incorrectly calculated household income during the period August 2009 through November 2009 resulting in an over-issuance of SNAP benefits in the amount of \$238. While you contend that you should not be responsible to repay over-issued SNAP benefits caused by an agency error, all SNAP overpayments, whether caused by the Department 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 repayment claim in the amount of \$238 for the period August 2009 through November 2009.

Sincerely,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

CC: Erika Young, Chairman, Board of Review  
Brian Shreve, Repayment Investigator

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

-----,                      **Action Number: 10-BOR-882**  
                                 **Claimant,**

**v.**

**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 July 16, 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 March 19, 2010, on a timely appeal filed February 24, 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  
-----, Claimant  
Brian Shreve, Repayments Investigator, WV DHHR

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the State Board of Review.

This hearing was conducted at the WV Department of Health and Human Resources, [REDACTED] County Office in [REDACTED] WV.

The Hearings Officer placed all participants under oath at the beginning of the hearing

#### **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) repayment claim.

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

West Virginia Income Maintenance Manual, Chapter 10.4 and Chapter 20.2.  
US Code Chapter 7, §2022.13.  
Code of Federal Regulations Chapter 7 §273.18

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

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

- D-1 CMCC Screen Print from RAPIDS System showing case comments made on July 9, 2009.
- D-2 CMCC Screen Print from RAPIDS System showing case comments made on July 23, 2009.
- D-3 AQIE Screen Print from RAPIDS System showing Qualified Medicare Beneficiaries (QMB) Medicaid benefits issued to Claimants' household from August to November 2009.
- D-4 Copy of Income Maintenance Manual Chapter 10.4.B.6.a, showing SNAP benefit medical expense deductions.
- D-5 Copy of Income Maintenance Manual Chapter 16.6.C, describing the Qualified Medicare Beneficiaries Medicaid Program.
- D-6 CMCC Screen Print from RAPIDS System showing case comments made on October 26, 2009.
- D-7 EFAD Screen Print from RAPIDS showing SNAP allotment determination calculation for August through November 2009.
- D-8 ES-FS-5, Food Stamp Claim Determination – March 2009 through August 2009.
- D-9 Copy of Income Maintenance Manual Chapter 20.2 showing SNAP overpayment claims and repayment procedures.
- D-10 Copy of Notification of Supplemental Nutrition Assistance Program (SNAP) Over-issuance, addressed to Claimants and dated January 12, 2010.

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

- 1) On or about January 12, 2010, Claimants were notified of a Supplemental Nutrition Assistance Program (SNAP) over issuance. (Exhibit D-10.) 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 8/1/09 to 11/30/09 because of incorrect income disregards/deductions.

This notice states further that an Agency Error claim for \$238 has been established against the Claimant's household.

- 2) The Department's representative, a State Repayment Investigator, presented evidence in the form of case recordings by an Economic Services worker that indicate Claimants reapplied for SNAP benefits on July 9, 2009. (Exhibit D-1.) On July 23, 2009, the same Economic Services worker recorded that Claimant would receive Medicare Part A and Part B. This worker further recorded that he/she entered the Medicare premium payments of \$96.40 per month as a medical deduction from the household income. (Exhibit D-2.) This deduction resulted in a raise in the household's SNAP benefits to \$189 per month effective in August 2009.
- 3) At the same time, the case worker approved Claimant for the Qualified Medicaid Beneficiary (QMB) program, which pays the Medicare Part B premium and all Medicare co-insurance amounts, along with the Medicare Part A and Part B deductibles. According to Income Maintenance Manual Chapter 10, Section 4.B.6.a (Exhibit D-4), since Claimant was getting QMB and/or having her premium, the household was not eligible for the medical deduction.
- 4) On October 26, 2009, an Economic Services supervisor recorded that he/she discovered this error and initiated appropriate action to correct the over-issuance. Part of the corrective action included a referral to the Investigations and Fraud Management (IFM) unit of the DHHR.
- 5) The IFM investigator determined that this clearly was a case of worker error and not an Intentional Program Violation on the part of the Claimants. The investigator completed a Food Stamp (SNAP) Overpayment Claim Determination (Exhibit D-8) which indicated that Claimants were overpaid SNAP benefits in the amount of \$91 per month for August and September 2009, then after an across-the-board SNAP amount raise effective in October, they were overpaid \$98 per month for October and November 2009. The investigator determined that Claimants were overpaid a total of \$238 in SNAP benefits.
- 6) West Virginia Income Maintenance Manual, Chapter 20.2, (Exhibit D-6) states in pertinent part:

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.

- 7) West Virginia Income Maintenance Manual, Chapter 20.2,C states in pertinent part:

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 over-issuance.
- An unintentional error made by the client resulted in the over-issuance.

- 8) US Code Chapter 7, §2022.13(b)(1) (Exhibit D-7) states:

In General, except as otherwise provided in this subsection, a State agency shall collect any over-issuance of [SNAP benefits] issued to a household . . .

- 9) The Claimants did not contest the facts in this case. The Claimants indicated that they applied for accepted benefits in good faith that they were receiving the amount to which they were entitled. They did not feel that they should be required to pay back SNAP benefits that they received incorrectly, since the error was the result of a mistake on an Income Maintenance Worker's part.

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

- 1) The evidence reveals that the Department incorrectly allowed a deduction for Claimants' Medicare premiums while they were receiving QMB, which pays these premiums. This is clearly an Unintentional Program Violation (UPV) based on an Agency error.
- 2) Pursuant to policy found in Chapter 20 of the West Virginia Income Maintenance Manual, the Department has correctly proposed repayment of the over-issued 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 a repayment claim is therefore 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 \$238 for the period August 2009 through November 2009.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 16<sup>th</sup> Day of July, 2010.**

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**Stephen M. Baisden**  
**State Hearing Officer**