



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

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

**Earl Ray Tomblin
Governor**

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

July 21, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 18, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to establish and seek 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 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 you received SNAP benefits to which you were not entitled as a result of an agency and 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 \$2490.00.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review
Lori Woodward, Repayment Investigator

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

IN RE: -----,

Respondent,

v.

ACTION NO.: 11-BOR-1224

**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 was convened on a timely appeal, filed May 18, 2011.

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 wife
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 claim.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Request dated May 16, 2011
- D-2 Computer printout of Social Security Administration Benefit Details dated May 19, 2011
- D-3 Computer printout of Case Comments dated May 3, 2010
- D-4 Combined Application and Review Form with associated Rights and Responsibilities dated May 3, 2010
- D-5 Combined Application and Review Form with associated Rights and Responsibilities dated October 26, 2010
- D-6 Notice of Potential Error dated March 21, 2011
- D-7 Food Stamp Claim Determination
- D-8 West Virginia Income Maintenance Manual Chapter 1.2 and 2.2
- D-9 West Virginia Income Maintenance Manual Chapter 20.2

VII. FINDINGS OF FACT:

- 1) On May 16, 2011, the Respondent requested a fair hearing (Exhibit D-1) based on the Department's proposal to establish a Supplemental Nutrition Assistance Program, hereinafter SNAP, repayment claim for a total amount of \$2490.00.
- 2) Ms. Lori Woodward, Repayment Investigator testified that the Respondent reapplied for SNAP benefits on May 3, 2010. Prior to his eligibility interview, the Respondent phoned the Department's Customer Service Center (Exhibit D-3), from the local office, and reported that he had been approved for Retirement Survivors Disability Insurance (RSDI) benefits from the Social Security Administration, based on his disability. Ms. Woodward indicated that the Respondent completed his eligibility interview (Exhibit D-4) with the Department on the same day, but failed to report the RSDI income.
- 3) Ms. Woodward stated that the Respondent made contact with the Department on July 1, 2010 and October 26, 2010 (Exhibit D-5), and failed to report the RSDI income.
- 4) Ms. Woodward stated that the Department received Exhibit D-6, Notice of Potential Error on March 21, 2011. This exhibit documents in pertinent part:

----- is ineligible for SNAP benefits due to an error in unearned income. QC [Quality Control] verified by data exchange that ----- receives RSDI benefits of \$819 per month. Case comments also indicate he reported that he was receiving RSDI benefits. When his income is combined with is [sic] wife's earnings, the income is excessive for a two person household.

- 5) Ms. Woodward stated that after further investigation, a SNAP repayment claim was issued to the Respondent. Ms. Woodward explained that \$624.00 of the total repayment claim, for the period of January 2010 through April 2010, was considered an agency error based on the Department's failure to complete a data exchange alert on December 4, 2009. The remaining amount of the claim was written as two unintentional client errors for an amount of \$930.00 for a period of May 2010 through October 2010 and \$936.00 for November 2010 through April 2011. The total amount of the SNAP claim was established for \$2490.00 (Exhibit D-7).
- 6) -----, Respondent's wife stated that the proposed repayment claim against the household is unjust. ----- stated that her husband has been disabled since 2009 and that the information concerning -----'s income had been reported to the Department which the worker should have researched. ----- indicated that her husband had all of the household's income information when he came to the office and the household was not hiding any information. ----- was concerned that the error was not found earlier and that a repayment would create a burden on the household due to their current situation and asked that the repayment be waived. Ms. Woodward stated that policy requires a repayment of SNAP benefits whether it is an agency error or a client error.
- 7) West Virginia Income Maintenance Manual Chapter 20.2 documents in pertinent part:
- 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.
- 8) West Virginia Income Maintenance Manual Chapter 20.2 C documents that there are two types of Unintentional Program Violations (UPV)-client errors and agency errors. An 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.
 - The client's benefits are continued pending a Fair Hearing decision and the subsequent decision upholds the Department's action.
 - It is determined by court action or ADH the client did not commit an IPV. The claim is pursued as a UPV.
 - The AG received SNAP solely because of Categorical Eligibility, and it is subsequently determined ineligible for WV WORKS and/or SSI at the time they received it.
EXCEPTION: If the client misrepresented circumstances in order to receive cash assistance or SSI, the SNAP claim may be an IPV.
 - The Department issued duplicate benefits and the over issued amount was not returned.
 - The Department continued issuance beyond the certification period without completing a redetermination.

Additionally, West Virginia Income Maintenance Manual Chapter 20.2 C documents:

(a) Agency Errors

(1) Failure To Take Prompt Action

The first month of over issuance is the month the change would have been effective had the agency acted promptly.

(2) Computation Error

The first month of over issuance is the month the incorrect allotment was effective.

(b.) Client Errors

When the client fails to provide accurate or complete information, the first month of the over issuance is the month the incorrect, incomplete or unreported information would have affected the benefit level considering notice and reporting requirements.

VIII. CONCLUSIONS OF LAW:

- 1) Departmental policy requires that when an assistance group 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 assistance group and the SNAP allotment the assistance group was entitled to receive. Additionally policy stipulates that an UPV can result from an agency or client error and such errors can be established when an error by the Department results in an over issuance of SNAP benefits or when an unintentional error made by the client results in an over issuance of SNAP benefits.
- 2) The Respondent reported his receipt of income from the Social Security Administration in conversations with the Department's Customer Service Center on May 3, 2010, but failed to report the income information at a SNAP application later the same day. However, the Department failed to complete a data exchange alert with the Social Security Administration and consider the income in the Respondent's SNAP application. While this error is not the fault of the Respondent, policy requires over issuances of SNAP benefits resulting from agency errors be repaid. Additionally, the Respondent made contact with the Department on two separate occasions and failed to report his receipt of disability income. This unintentional error made by the Respondent resulted in an over issuance of SNAP benefits and policy requires that such over issuances in benefits be repaid.
- 3) The Department's proposal to establish and seek collection of a repayment claim based on an agency error and an unintentional client error 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 in the amount of \$2490.00.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ day of July, 2011.

Eric L. Phillips
State Hearing Officer