



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.
Cabinet Secretary

September 22, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 7, 2011. Your hearing request was based on the Department of Health and Human Resources' establishment of a SNAP repayment claim based on household composition and income errors.

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, reflecting the difference between the actual and corrected SNAP allotments (West Virginia Income Maintenance Manual, Chapter 20.2).

The information submitted at your hearing revealed that the Department was correct to establish a SNAP repayment claim on an income error, but incorrect to establish a SNAP repayment claim based on household composition.

It is the decision of the State Hearing Officer to **uphold** the Department action to establish a SNAP repayment claim; however, this claim must be amended to reflect the income error only.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

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

IN RE: -----,

Respondent,

v.

ACTION NO.: 11-BOR-1570

**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 concluded on September 22, 2011, 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 September 7, 2011, on a timely appeal, filed July 25, 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 benefits 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 witness
-----, Respondent's witness
Cassandra Burns, Department representative

All persons offering testimony were placed under oath.

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 or not the Department was correct to establish a SNAP repayment claim for income and household composition errors.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Documentation of SNAP repayment claim calculations
- D-2 Income verification
- D-3 Case comments
- D-4 West Virginia Income Maintenance Manual, Chapter 20.2

Respondent's Exhibits:

- C-1 Household composition statements

VII. FINDINGS OF FACT:

- 1) Cassandra Burns, representative for the Department, testified that the Respondent completed a SNAP eligibility review on April 12, 2010, and failed to report income from her daughter ----- . Additionally, at this review, the Respondent reported her daughter ----- out of the household, and the Department failed to remove ----- from the SNAP allotment calculations. Case comments (Exhibit D-3) from this April 12, 2010 review state, in pertinent part:

STATED THAT ----- IS NO LONGER IN HOME. ALSO ----- HAS LEFT HOME. LEAVES 3 IN BENEFIT GROUP.

Ms. Burns testified that although this comment was made, the Department worker did not remove ----- from the Respondent's case, resulting in SNAP benefits being determined at a higher level than appropriate.

- 2) Ms. Burns presented documentation (Exhibit D-1) showing the calculations of a \$3007.00 SNAP repayment claim, from May 2010 through October 2010, resulting

- 3) The West Virginia Income Maintenance Manual, Chapter 20.2, describes the claim establishment process as follows, 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.

- 4) The claim calculations (Exhibit D-1) compare the actual and corrected SNAP entitlement amounts for each of the months from May 2010 through October 2010. The corrected amounts reflect a reduction in the household size from four to three, and an increase in household income reflecting verified income amounts (Exhibit D-2) for -----
[REDACTED] The Respondent did not dispute the income verification presented by the Department, and did not dispute that this income was not reported at the time. Case comments (Exhibit D-3) from the April 2010 review note income reported for the Respondent, but not for any other household member.
- 5) The Respondent disputed the determination by the Department that ----- was out of her household during the claim months. She testified that ----- was in her home at that time, and opined that the case comments noting two daughters – ----- and ----- – out of the home must have been a worker error as a result of a miscommunication; her daughter ----- was out of the home, but ----- did not leave.
- 6) The Respondent presented six separate statements (Exhibit C-1) from members of her community, notarized and dated – with the exception of one – between July 25, 2011 and August 3, 2011; these statements all claimed that ----- resides with her mother, the Respondent. All but one claimed that ----- has “always” lived with the Respondent. One of the statements is from a person that delivers the mail to the Respondent, and he claimed that he sees ----- “every day” when she picks up the mail for the family.

VIII. CONCLUSIONS OF LAW:

- 1) SNAP policy requires corrective action, by way of establishing repayment claims, when a household has received excessive SNAP benefits. Such claims reflect the difference

between the SNAP benefits received by the household, and the correct amount that should have been issued to the household. The Department presented documentation of a \$3007.00 SNAP repayment claim that was the result of two incorrect elements in the Respondent's SNAP calculations – the unreported income of -----, and the reported absence of ----- that was not acted on correctly by the Department. The Respondent did not dispute the evidence presented by the Department showing that ----- income was not reported or counted in their SNAP allotment calculations. The Department was correct to determine an over issuance of SNAP benefits to the Respondent based on the income element.

- 2) The totality of the evidence and testimony weighs in the favor of the Respondent, with regards to the presence of ----- in the Respondent's household during the claim months from May 2010 through October 2010. Case comments made at the time of the April 2010 review indicate two daughters were out of the household – including ----- – but the Respondent testified that this was a mistake, and opined that the worker was confused because one daughter – not ----- – was out of the home and attending college. Six statements were presented by the Respondent, and several were convincing statements that ----- is not only present in the Respondent's household now, but has been – without interruption – since birth. Without evidence to support a claim based on a reduced household composition, this element of the Department's SNAP claim calculation is incorrect.
- 3) Because the Department established one claim combining the income and household composition elements, the establishment of the claim itself is correct, but the claim amount is incorrect.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department to establish a SNAP repayment claim; however, this claim must be amended to reflect only the incorrect income element, and not include a household composition element in either this claim or a separate claim.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Respondent's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of September, 2011.

**Todd Thornton
State Hearing Officer**