



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

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

November 22, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held November 17, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to impose a repayment of Supplemental Nutrition Assistance Program (SNAP) benefits.

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. These regulations provide that when an assistance group has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing a repayment claim. The claim is the difference between the SNAP entitlement of the assistance group and the SNAP allotment (WV Income Maintenance Manual § 20.2).

The information submitted at your hearing revealed that you were overpaid SNAP benefits from September 2010 through June 2011 due to an agency error.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to pursue a repayment of SNAP benefits against you.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Rusty Udy, Repayment Investigator

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

IN RE: -----,

Respondent,

v.

ACTION NO.: 11-BOR-2015

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Movants

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on November 17, 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 a timely appeal, filed September 23, 2011.

II. PROGRAM PURPOSE:

The program entitled Supplemental Nutrition Assistance Program is administered by the West Virginia Department of Health and Human Resources.

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 Attorney in Fact

Rusty Udy, Repayment Investigator

Ann Carpenter, Economic Service Worker

Jessica Shumake, Economic Service Worker

Presiding at the Hearing was Kristi Logan, 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's proposal of a repayment of SNAP benefits is correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 2.2 B, 20.1 and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 SNAP Claim Determination Form
- D-3 SNAP Claim Calculation Sheet
- D-4 SNAP Issuance History Screen (IQFS) from RAPIDS Computer System
- D-5 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-6 Case Members History Screen (AQCM) from RAPIDS Computer System
- D-7 Case Comments (CMCC) from RAPIDS Computer System
- D-8 Data Exchange Alert Screen (DXRL) from RAPIDS Computer System
- D-9 Combined Application and Review Form dated June 29, 2010
- D-10 Rights and Responsibilities Form dated June 29, 2010
- D-11 Overpayment Notification Letter dated September 13, 2011
- D-12 WV Income Maintenance Manual §2.2 B
- D-13 WV Income Maintenance Manual § 20.1 and 20.2

VII. FINDINGS OF FACT:

- 1) Claimant applied for SNAP benefits on June 30, 2010. She reported to her caseworker that she had recently been discharged from [REDACTED] Continuous Care nursing facility and was currently staying with a friend. The worker verified through the data exchange system that Claimant had SSI income, which had been reduced to \$30 monthly when she was a resident in the nursing facility. Claimant reported that once her SSI income had been restored to the full amount, she would be renting an apartment. SNAP benefits were approved based on the information provided (D-1, D-4, D-5 and D-8).
- 2) The Department received a data exchange alert through the RAPIDS computer system from the Social Security Administration (SSA) that Claimant's SSI had been increased

to \$674 monthly effective July 2010 (D-8). Claimant's SSI income was not updated until June 2011 when a 12 month SNAP review was processed. Claimant's SNAP benefits were reduced effective July 2011 (D-1, D-4 and D-7).

- 3) The Department contends Claimant was overpaid in SNAP benefits in the amount of \$1522 that were issued from September 2010 through June 2011. Claimant's SSI income increased from \$30 to \$674 a month in July 2010, but she continued to receive SNAP benefits based on only \$30 a month income (D-2 and D-3).

Rusty Udy, Repayment Investigator, testified that Claimant's SSI income should have been updated in July 2010 when the date exchange alert was issued. Data exchange alerts from SSA are considered "verified upon receipt" and per policy are required to be acted upon despite simplified reporting requirements. Mr. Udy stated Claimant's overpayment was determined to be an agency error.

- 4) Claimant testified her SSI check of \$30 went to the nursing facility in July 2010, but the facility turned it over to her that month. She stated she received a check for \$644 later in the month and started receiving \$674 a month effective August 2010 and ongoing. Claimant stated she reported the increase of her SSI and did not feel she should be responsible for the repayment.
- 5) WV Income Maintenance Manual § 2.2 B(2)a states:

Changes Acted on for SNAP AG's [Assistance Groups]

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
- COLA Mass Change and reports in Appendix B
- SAVE from INS and 40 Qualifying Quarters information from SSA
- Unemployment Compensation from WV BEP data exchange
- SNAP E&T's information that a client did not comply with work requirements
- IFM's determination of an IPV
- Notification of application for benefits in another state

- 6) WV Income Maintenance Manual § 20.2 states:

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. The procedures and policy by which SNAP claims are referred, established, collected and maintained follow.

- 7) WV Income Maintenance Manual § 20.2 C(1) states:

A UPV claim is established when:

- An error by the Department resulted in the overissuance.

Agency Errors

(1) Failure To Take Prompt Action

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

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates when an overpayment of SNAP benefits occurs, whether agency error or client error, corrective action must be taken to collect the overpayment.
- 2) Respondent was issued SNAP benefits for which she was not entitled to receive from September 2010 through June 2011. The Department received a data exchange alert in July 2010 from the Social Security Administration that Respondent's SSI had increased to \$674 a month. However, Respondent's income was not updated until June 2011. Although the overpayment was determined to be agency error for the Department's failure to take action on a "verified upon receipt" alert, Claimant is still responsible for the repayment of SNAP benefits issued during that time period that she was not eligible to receive.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to pursue a repayment of SNAP benefits for Respondent issued from September 2010 through June 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd day of November 2011.

Kristi Logan
State Hearing Officer