



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

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

April 20, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 14, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to establish 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 the 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)

Information submitted at your hearing reveals that you received SNAP benefits to which you were not entitled as the result of an Agency error. Therefore, a repayment claim should be established.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Agency to establish and seek collection of a SNAP claim in the amount of \$2,670.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Cassandra Burns, Repayment Investigator, DHHR

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

-----,

Respondent,

v. Action Number: 11-BOR-701

**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 convened on April 14, 2011 on a timely appeal filed March 4, 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
Cassandra Burns, Repayment Investigator, DHHR

Presiding at the hearing was Pamela L. Hinzman, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department is correct in its proposal to establish and seek repayment of a SNAP claim.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapters 10.3PPP and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Fair Hearing information
- D-2 Four Notices of Decision dated March 3, 2011
- D-3 Food Stamp Claim Determination Forms, Case Members History. self-employment income information, SNAP Issuance History and Case Comments
- D-4 West Virginia Income Maintenance Manual Chapter 20.2
- D-5 Food Stamp Claim Determination and Food Stamp Claim Calculation Sheets (recalculated) and rental income information

VII. FINDINGS OF FACT:

- 1) The Respondent received Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, benefits during the period of November 2009 through July 2010.
- 2) WVDHHR Repayment Investigator Cassandra Burns testified that the Respondent owns rental property in the state of Kansas and the Department failed to count the rental income in the Respondent's case despite having knowledge of the income. Case comments (D-3) reveal that the Department had knowledge of the property as early as January 2009. The Repayment Investigator stated that the Respondent receives \$800 per month in rental income, however, \$100 of the rental income is paid to a property management company for management fees.
- 3) The Repayment Investigator indicated that she originally calculated the SNAP over issuance as \$2,940 (D-3), however, she was unaware that \$100 was paid to the property management company at that time. The over issuance was recalculated (Exhibit D-5) as \$2,670.
- 4) The Respondent testified that she reported the rental income to the Department, and was upset that the error was made and the overpayment accumulated for such a long period of time.

The Repayment Investigator stated that a SNAP claim must be established regardless of whether the error is considered an Agency or client error.

- 5) West Virginia Income Maintenance Manual Chapter 10.3PPP states that rental income is counted as unearned, self-employment income when calculating a SNAP Assistance Group's countable income.
- 6) West Virginia Income Maintenance Manual Chapter 20.2 states 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 entitlement the Assistance Group received and the entitlement the Assistance Group should have received [emphasis added].

- 7) West Virginia Income Maintenance Manual Chapter 20.2, C states that there are two types of Unintentional Program Violations- client errors and Agency errors. A 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.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that rental income is counted as unearned, self-employment income for SNAP purposes. An Unintentional Program Violation- Agency error - can be established when an error by the Department results in an over issuance of SNAP benefits.
- 2) The Respondent reported her rental income to the Department, however the Agency failed to consider the rental income when calculating the Respondent's SNAP benefits. While the SNAP over issuance was not the fault of the Respondent, policy requires that unintentional over issuances resulting from Agency errors be repaid.
- 3) The Department's proposal to establish and seek collection of a repayment claim based on an Agency error is, therefore, affirmed.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the Agency's proposal to establish and seek collection of a SNAP repayment claim of \$2,670.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 20th Day of April, 2011.

**Pamela L. Hinzman
State Hearing Officer**