



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

Earl Ray Tomblin  
Governor

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

June 28, 2011

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held June 24, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to establish a Supplemental Nutrition Assistance Program (SNAP) 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 correctly determined you received SNAP benefits from December 1, 2010 to February 28, 2011 to which you were not entitled due to an agency error, resulting in an over-issuance in the amount of \$345.

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 \$345 for the period of December 1, 2010 to February 28, 2011.

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**

**IN RE: -----,  
Respondent,**

**Action Number: 11-BOR-980**

**v.**

**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 June 28, 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 (DHHR.) This fair hearing was convened on June 24, 2011, on a timely appeal filed April 15, 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

Brian Shreve, Repayments Investigator, Department's Representative

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 both 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 repayment claim due to an agency error.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapter 20.2.

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

**Department's Exhibits:**

- M-1 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made on December 1, 2010, in Respondent's case.
- M-2 AFUI Screen print from RAPIDS System showing unearned income entered in Respondent's case.
- M-3 Screen print from the WV Bureau of Employment Programs indicating Respondent's Unemployment Compensation benefits from December, 2010 to February, 2011.
- M-4 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made on January 26, 2011, in Respondent's case.
- M-5 Copy of Income Maintenance Manual Chapter 20.2 showing SNAP overpayment claims and repayment procedures.
- M-6 ES-FS-5, Food Stamp [SNAP] Claim Determination – December 2010 through February 2011.
- M-7 Copy of Respondent's hearing request and letter from Repayments Investigator to Respondent dated April 4, 2011.
- M-8 Copy of Notification of Supplemental Nutrition Assistance Program (SNAP) Overissuance letter, dated March 18, 2011.

**VII. FINDINGS OF FACT:**

- 1) Department's Representative submitted verification in the form of a print-out from Respondent's SNAP case record to indicate that an application was made in Respondent's behalf on December 1, 2010, for SNAP benefits. (Exhibit M-1.) The worker who took the application recorded the following:

[Claimant] IN TODAY TO APPLY FOR SNAP, SHE REC'VD BENEFITS IN 11-10 BUT CASE WAS CLOSED. SHE REPORTS ONE PERSON AG/HH RESP FOR RENT HEATS [with] GAS COOLS [with] ELECTRIC . . . HAS

ONE VEHICLE AND NO OTHER ASSETS . . . 206.00 BI-WEEKLY  
UN[employment] . . . HER UN[employment] DECREASED.

Department's Representative testified that the data entry for the unemployment is the source of the error in this case. He stated that the worker recorded Claimant received unemployment compensation in the amount of \$206 biweekly, and that was the amount she entered in the unearned income section of Claimant's SNAP application. (Exhibit M-2.) Department's Representative submitted a print-out from the WV Bureau of Employment Programs to indicate the amount of Claimant's unemployment compensation was \$402 biweekly. (Exhibit M-3.)

- 2) Department's representative submitted into evidence a recording made by an Economic Service Worker indicating that she discovered and corrected the error on January 26, 2011. (Exhibit M-4.) He testified that because the error was corrected so late in the month of January, 2011, the SNAP benefit amount for February, 2011 could not be corrected. He stated that he calculated the amount of overpaid SNAP benefits, which included the months of December 2010, January 2011 and February 2011, on a Food Stamp [SNAP] Claim Determination form (Exhibit M-6), and determined that Respondent was overpaid SNAP benefits in the amount of \$345 for these months.
- 3) West Virginia Income Maintenance Manual, Chapter 20.2 (Exhibit M-5) states in pertinent part:

When an AG (assistance group) has been issued more Food Stamps [SNAP] 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.

- 4) Respondent testified that when she applied for SNAP benefits on December 1, 2011, she submitted to her worker her first unemployment compensation check in the amount of \$206, but that she told the economic service worker her full check amount would be \$402 biweekly. She stated that the worker acknowledged she understood that the \$206 check submitted at application did not reflect Respondent's full unemployment compensation income. She added that she did not know why the worker entered the incorrect income but it was not fair that she be required to repay benefits when the economic services worker clearly made the error.

#### **VIII. CONCLUSION OF LAW:**

- 1) Respondent applied for SNAP benefits on December 1, 2010. At that time, the worker who processed her application entered her unemployment compensation income as \$206 biweekly, when the actual amount was \$402 biweekly. This error was corrected in January 2011, but too late in the month to correct the SNAP issuance for February 2011. Therefore, Respondent was overpaid SNAP benefits in the amount of \$345, for December 2010 through February 2011.

- 2) Policy is clear that if a SNAP assistance group receives more SNAP benefits than it is entitled to receive, a repayment claim must be established, regardless of whether the overpayment is due to a worker's error, an applicant's error, or an applicant's misrepresentation.
- 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 due to an agency error in the amount of \$345 for the period December 1, 2010 through February 28, 2011.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Respondent's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 28<sup>th</sup> Day of June, 2011.**

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