



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

Rocco S. Fucillo
Cabinet Secretary

August 8, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held August 2, 2012. 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 \$1,867.

Sincerely,

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

Cc: Erika H. Young, Chairman, Board of Review
Samantha Close, Repayment Investigator, WVDHHR

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

IN RE: -----,

Respondent,

v.

ACTION NO.: 12-BOR-1486

**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 August 2, 2012, on a timely appeal filed June 14, 2012.

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
Samantha Close, Repayment Investigator, WVDHHR

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 Chapter 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp Claim Determination form for period of October 2011- March 2012
- D-2 Benefit Payment History (low earnings) for Respondent
- D-3 Combined Application and Review Form with Rights and Responsibilities signed by Respondent on October 12, 2011
- D-4 Case Comments dated October 12, 2011
- D-5 West Virginia Income Maintenance Manual Chapter 20.2

VII. FINDINGS OF FACT:

- 1) The Respondent received Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, benefits during the period of October 12, 2011, through March 2012.
- 2) WVDHHR Repayment Investigator Samantha Close testified that the Respondent received an over issuance of SNAP benefits during this time period because the Agency failed to consider his low earnings income. The Investigator stated that the Agency had access to information concerning the Respondent's low earnings income based on a computerized data match it receives (D-2).
- 3) Exhibit D-1 reveals that the Respondent received \$1,867 in SNAP benefits to which he was not entitled as a result of the error.
- 4) The Respondent testified that he drives a log truck and had informed the worker who processed his SNAP application that he receives a combination of employment wages and low earnings, as his number of work days depends on various factors.

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 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].

- 6) 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 an over issuance of SNAP benefits.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that 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 testified that he reported receiving a combination of wages/low earnings to the Department. However the Agency failed to consider the low earnings income when calculating the Respondent's SNAP benefits even though the information was available via computerized data match. 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 \$1,867.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of August, 2012.

**Pamela L. Hinzman
State Hearing Officer**