



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Earl Ray Tomblin
Governor

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

March 9, 2012

----- and -----

Dear ----- and -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held March 6, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to establish a cash assistance and 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 SNAP is based on current policy and regulations. Some of these regulations state that when an Assistance Group (AG) 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. Repayment is pursued for cash assistance overpayments made under the former AFDC/U Program, WV WORKS, CSI, the former TANF Program, WV WORKS School Clothing Allowance, and the West Virginia School Clothing Allowance. When an AG has received more cash assistance than it was entitled to receive, corrective action is taken by establishing a claim for the overpayment. The claim is the difference between the amount of benefits received and the amount of benefits to which the AG was entitled. (West Virginia Income Maintenance Manual §§20.2, 20.3 and 7 CFR § 273.18 - Code of Federal Regulations).

Information submitted at the hearing reveals that unreported child support arrearage payments received by ----- resulted in the AG being overpaid SNAP benefits and that Social Security Survivor's benefits caused an overpayment in cash benefits. Cash assistance and SNAP repayment policy provides that all overpayments, whether caused by the Agency or the household, are subject to repayment.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to establish and seek collection of a SNAP repayment claim against the SNAP AG in the amount of \$2,264 for the period of May 2009 through September 2011. Furthermore, it is the decision of the State Hearing Officer to **uphold** the Department's proposal to establish and seek collection of a cash assistance claim against ----- in the amount of \$498 for the period of November 2010 through April 2011.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

Pc: Erika H. Young, Chairman, Board of Review
Melissa Barr, RI, DHHR

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

-----, (Claimant)
----- (Co-Claimant)

Claimants,

v. **Action Number: 12-BOR-305 (SNAP) -----**
12-BOR-306 (Cash Assistance) -----
12-BOR-307 (SNAP) -----

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

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing for ----- and -----
 ---. 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 March 6, 2012 on a timely appeal filed December 29, 2011.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, 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 EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

The purpose of WV WORKS is to help economically dependent, at-risk families become self-supporting. It is a work-oriented, performance-based, time-limited program that emphasizes employment and personal responsibility. The goals of WV WORKS are to achieve more efficient and effective use of public assistance funds, reduce dependency on public programs by promoting self-sufficiency, and structure assistance to emphasize employment and personal responsibility.

III. PARTICIPANTS:

-----, Claimant

-----, Co-Claimant

Melissa Barr, Repayment Investigator (RI), WVDHHR

Presiding at the hearing was Thomas E. Arnett, 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 is correct in its proposal to establish and seek repayment of a cash assistance claim against -----, and a SNAP claim again ----- and -----.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapters 1.2.E, 2.2.B, 2.17.B.2, 10.3.N.2, 20.2 and 20.3.

7 CFR § 273.18 - Code of Federal Regulations.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Benefit Recovery Referral (Cash Assistance) for -----

D-2 West Virginia Income Maintenance Manual Chapter 20.2

D-3 Notification of Cash Assistance and/or School Clothing Allowance Overpayment for the period of 11/1/10 to 4/30/11 (dated 12/23/11)

Notification of Supplemental Nutrition Assistance Program (SNAP) Overissuance for the period 5/1/09 to 5/31/10 (dated 12/23/11)

Notification of Supplemental Nutrition Assistance Program (SNAP) Overissuance for the period 6/1/10 to 9/30/11 (dated 12/23/11)

D-4 West Virginia Income Maintenance Manual Chapter 1.2.E

D-5 West Virginia Income Maintenance Manual Chapter 10.3.N.2

D-6a Customer Questionnaire, Combined Application and Review Form (CAF), Rights and Responsibilities and Case Comments – Completed on 4/15/09

D-6b Supplemental Nutrition Assistance Program (SNAP) 12-Month Review – Completed in April 2009

D-6c Application for Low Income Energy Assistance Program (LIEAP) – signed by the Claimant on 11/9/09

D-6d WV Children's Health Insurance Application – signed by the Claimant on 3/5/10

- D-6e Customer Questionnaire, Combined Application and Review Form, Rights and Responsibilities – signed by the Claimant on 4/7/10, accompanied by Case Comments entered on 4/7/10
- D-6f Supplemental Nutrition Assistance Program (SNAP) 24-Month Review – signed by the Claimant on 4/21/10 – accompanied by Case Comments dated 4/21/10
- D-6g Application for Low Income Energy Assistance Program (LIEAP) – signed by the Claimant on 10/30/10 – accompanied by Case Comments dated 11/9/10
- D-6h WV Children’s Health Insurance Application – signed by the Claimant on 3/8/11
- D-6i Customer Questionnaire, Combined Application and Review Form and Rights and Responsibilities – signed by the Claimant on 4/4/11 – accompanied by Case Comments entered on 4/4/11
- D-6j Supplemental Nutrition Assistance Program (SNAP) 12-Month Contact – Completed by the Claimant in April 2011
- D-7 Case Comments entered on 3/31/11
- D-8 Child support “arrearage” disbursements for ----- (2/16/07 – 7/27/11)
- D-9 Food Stamp Claim Determination for ----- and ----- for the period of May 2009 – May 2010 (\$383) with calculations, and Food Stamp Claim determination for --- ----- and ----- for period June 2010 – September 2011 (\$1881) with supporting calculations
- D-10 Cash Assistance Claim Determination for the period of November 2010 – April 2011 (\$498)

VII. FINDINGS OF FACT:

- 1) On or about December 23, 2011, the Claimant and Co-Claimant were notified of a Supplemental Nutrition Assistance Program (SNAP) over issuance (D-3). The SNAP repayment notifications separate the repayment amount into two individual claims - 5/1/09 to 5/31/10 (\$383) and 6/1/10 to 9/30/11 (\$1,881) - but the total repayment proposed by the Department is \$2,264 for the period of 5/1/09 to 9/30/11. Only the Claimant, E. -----, was provided notice on December 23, 2011 that she had been overpaid cash assistance benefits in the amount of \$498 during the period of 11/1/10 through 4/30/11.
- 2) The Department presented evidence to indicate that the Claimant is the only household member responsible for repayment of the cash assistance claim because she is the caretaker relative in the case. The cash assistance overpayment occurred because ----- (Claimant’s granddaughter) began receiving Social Security Survivor’s benefits of \$83 per month, and this money counted against the Claimant’s cash assistance benefits dollar-for-dollar. As a result, a \$498 overpayment in cash assistance occurred during the 6-month period (6 x \$83= \$498) - November 2010 to April 2011.

The Department further contended that the Claimant’s Assistance Group (AG) received an overpayment in SNAP benefits because the Claimant failed to report she was receiving child support arrearage payments for her own children. It should be noted that child support payments received on behalf of the Claimant’s grandchildren were used in the monthly SNAP calculations, however, the Claimant’s child support arrearage income was not included.

The Department submitted Exhibit D-6a through D-6j (10 different applications/reviews) to show that the child support arrearage income received by the Claimant (verified in Exhibit D-8) was not reported during the proposed SNAP repayment period (May 2009 through September 2011). The Department noted that the Claimant signed the SNAP applications certifying the information provided was complete, and checked “yes” on the Rights and Responsibilities indicating that she understood that she may be required to repay any benefits paid to her, or on her behalf, for which she was not eligible because of unintentional errors made by her or by DHHR.

The Department is not alleging criminal or fraudulent behavior by the Claimant, but indicated repayment is being pursued based on an unintentional client error.

- 3) The Department submitted Exhibit D-9, two separate Food Stamp Claim Determinations, accompanied by calculations verifying the amount of SNAP benefits received and the corrected amount of SNAP benefits that the AG should have received (with the corrected monthly income amount). The Department noted that because the Claimant’s monthly child support arrearage income was not reported (and therefore not used in calculating the AG’s SNAP benefits during the period of May 2009 through September 2011), the AG received \$2,264 in SNAP benefits to which it was not legally entitled. The Department reported that the Co-Claimant, an adult SNAP AG member, is a liable debtor and also responsible for repayment of the SNAP claim.
- 4) As a matter of record, the Claimant indicated that she understood the reason the Department proposed repayment of cash assistance benefits in the amount of \$498 and agreed to repay that benefit overpayment. The Claimant contends, however, that neither she nor the Co-Claimant should be responsible to repay over issued SNAP benefits because the Department should have known that she was receiving child support arrearage payments, through the Bureau for Child Support Enforcement, from the father of her children.
- 5) West Virginia Income Maintenance Manual Chapter 2.17.B.2 states that for all WV WORKS cases, all changes in a client’s circumstances must be reported immediately.
- 6) West Virginia Income Maintenance Manual Chapter 20.3 indicates that repayment is pursued for cash assistance overpayments made under the former AFDC/U Program, WV WORKS, CSI, the former TANF Program, WV WORKS School Clothing Allowance, and the West Virginia School Clothing Allowance. When an AG has received more cash assistance than it was entitled to receive, corrective action is taken by establishing a claim for the overpayment. The claim is the difference between the amount of benefits received and the amount of benefits to which the AG was entitled.
- 7) West Virginia Income Maintenance Manual Chapter 1.2.E provides that it is the client’s responsibility to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.
- 8) West Virginia Income Maintenance Manual Chapter 2.2.B states that all SNAP AG’s must report changes related to eligibility and benefit amount at application and redetermination.

- 9) West Virginia Income Maintenance Manual, Chapter 10.3.N.2 indicates that child support arrearage payments are counted as unearned income when calculating SNAP benefits. “When redirected, only the amount forwarded to the client by BCSE [Bureau for Child Support Enforcement] is counted as income.” This policy became effective March 2009.
- 10) West Virginia Income Maintenance Manual, Chapter 10.4 provides that SNAP benefits are issued on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. Policy further provides that the benefit amount is determined by the countable monthly income and the number (of persons) in the benefit group.
- 11) West Virginia Income Maintenance Manual, Chapter 20.2:
When an AG (assistance group) has been issued more Food Stamps 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.
- 12) West Virginia Income Maintenance Manual, Chapter 20.2,C:
There are 2 types of UPV’s, client errors and agency errors.
A UPV claim is established when:
 - An error by the Department resulted in the overissuance.
 - An unintentional error made by the client resulted in the overissuance
- 13) Policy found in the West Virginia Income Maintenance Manual, Chapter 20.2.E provides direction regarding the collection of a SNAP claim and states, in pertinent part:

Collection action is initiated against the AG which received the overissuance.
When the AG composition changes, collection is pursued against any and all AG’s which include a liable debtor.

This policy goes on to provide a list of individuals who are equally liable (liable debtors) for the total amount of the overpayment. Among those individuals listed are adult or emancipated minors in the AG.

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant’s contention that she should not have to repay the SNAP claim because the Department “should have known she was receiving child support arrearage payments” has no merit. While the Department is not alleging that the Claimant committed an Intentional Program Violation, the Claimant’s monthly child support arrearage income was not reported on ten (10) different applications/reviews.
- 2) Pursuant to policy found in Chapter 20 of the West Virginia Income Maintenance Manual, the Department has correctly proposed repayment of the over issued SNAP and cash benefits - Policy makes no distinction between claims resulting from errors made by the Claimant or the Agency. The claim is the difference between the entitlement the Assistance Group received and the entitlement the Assistance Group should have received.

- 3) Evidence submitted at the hearing confirms that the Claimant was over issued \$2,264 in SNAP benefits during the period of May 2009 through September 2011 due to a client error. Because the Co-Claimant is a liable debtor, he is also responsible for repayment of the SNAP claim. Pursuant to the Claimant's agreement on the record, the overpayment of WV WORKS cash assistance benefits in the amount of \$498 is uncontested.
- 4) The Department's proposal to establish and seek collection of the repayment claim based on a client error is 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 against the Claimant and Co-Claimant in the amount of \$2,264 for the period of May 2009 through September 2011. Furthermore, it is the decision of the State Hearing Officer to **uphold** the Department's proposal to establish and seek collection of a cash assistance claim against the Claimant in the amount of \$498 for the period of November 2010 through April 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of March, 2012.

Thomas E. Arnett
State Hearing Officer