



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General

Board of Review  
P.O. Box 1736  
Romney, WV 26757

Earl Ray Tomblin  
Governor

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

March 15, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held March 14, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to establish and seek a Supplemental Nutrition Assistance Program (SNAP) repayment claim against you.

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 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)

The information which was submitted at your hearing revealed that you received SNAP benefits to which you were not entitled as a 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 Department to establish and seek collection of a SNAP claim in the amount of \$645.00.

Sincerely,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Samantha Close, Repayment Investigator

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

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

**Respondent,**

**v.**

**ACTION NO.: 12-BOR-635**

**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 was convened on a timely appeal, filed February 10, 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

Presiding at the hearing was Eric L. Phillips , 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 is correct in its proposal to establish and seek repayment of a SNAP over issuance.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapter 20.2

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

**Department's Exhibits:**

- D-1a Hearing Request
- D-1b Notification letter dated January 31, 2012
- D-2 Overpayment Calculation Sheet
- D-3 SNAP Issuance History
- D-4 Data Exchange Response List
- D-5 Computer Printout of Case Comments
- D-6 Recertification for SNAP benefits dated March 24, 2011
- D-7 West Virginia Income Maintenance Manual Chapter 10.3
- D-8 West Virginia Income Maintenance Manual Chapter 20.2

**VII. FINDINGS OF FACT:**

- 1) The Respondent was a recipient of the Supplemental Nutrition Assistance Program, hereinafter SNAP (Exhibit D-3).
- 2) On January 31, 2012, the Department issued notification (Exhibit D-1b) to the Respondent that she was over issued SNAP benefits and a claim was established to seek repayment of the over issued benefits.
- 3) Ms. Samantha Close, Repayment Investigator testified that the Respondent received an over issuance of \$645.00 in SNAP benefits for the time period of May, 2011 to October 2011 (Exhibit D-2).
- 4) Ms. Close testified that the over issuance resulted from an agency error. Ms. Close testified that the Respondent phoned her local Economic Service Worker, hereinafter ESW, in October, 2011 (Exhibit D-5) and reported her receipt of Social Security income. Ms. Close indicated that the ESW completed a data exchange (Exhibit D-4) with the Social Security Administration to verify the reported income and discovered that the Respondent began receiving the income in April, 2011. Ms. Close stated that this income information had been available to the Department since April, 2011; however, the Department failed to act upon the information. The addition of the Social Security income resulted in the Respondent being over the income guidelines for SNAP.
- 5) The Respondent testified that in March 2011, she phoned and left several voicemail messages with the ESW to report the receipt of Social Security income; however, she did not have any of her phone calls returned. The Respondent believed that she should not be held responsible for

the over issuance because the Department did not take action on the reported information. The Respondent did not contest any of the calculations concerning the amount of the repayment claim.

6) West Virginia Income Maintenance Manual Chapter 20.2 documents in pertinent part:

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.

7) West Virginia Income Maintenance Manual Chapter 20.2 C documents that there are two types of Unintentional Program Violations (UPV)-client errors and agency errors. An 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.
- The client's benefits are continued pending a Fair Hearing decision and the subsequent decision upholds the Department's action.
- It is determined by court action or ADH the client did not commit an IPV. The claim is pursued as a UPV.
- The AG received SNAP solely because of Categorical Eligibility, and it is subsequently determined ineligible for WV WORKS and/or SSI at the time they received it.  
**EXCEPTION:** If the client misrepresented circumstances in order to receive cash assistance or SSI, the SNAP claim may be an IPV.
- The Department issued duplicate benefits and the over issued amount was not returned.
- The Department continued issuance beyond the certification period without completing a redetermination.

Additionally, West Virginia Income Maintenance Manual Chapter 20.2 C documents:

(a) Agency Errors

(1) Failure To Take Prompt Action

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

(2) Computation Error

The first month of over issuance is the month the incorrect allotment was effective.

(b.) Client Errors

When the client fails to provide accurate or complete information, the first month of the over issuance is the month the incorrect, incomplete or unreported information would have affected the benefit level considering notice and reporting requirements.

**VIII. CONCLUSIONS OF LAW:**

- 1) Departmental policy requires 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 SNAP entitlement of the assistance group and the SNAP allotment the assistance group was entitled to receive. Additionally policy stipulates that an UPV can result from an agency or client error and such errors can be established when an error by the Department results in an over issuance of SNAP benefits or when an unintentional error made by the client results in an over issuance of SNAP benefits.
- 2) The Respondent was issued SNAP benefits for which she was not entitled to receive from May, 2011 through October, 2011. The Department received a data exchange alert from the Social Security Administration in April, 2011, but failed to take action on the change of income until October, 2011. Although the over issuance of SNAP benefits is considered an agency error because of the Department's failure to take action on the income information, the Respondent is still responsible for the repayment of SNAP benefits issued during the timeframe that she was not eligible to receive.
- 3) The Department's proposal to establish and seek collection of a repayment claim based on an agency error is affirmed.

**IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the Department's proposal to establish and seek collection of a SNAP repayment claim in the amount of \$645.00.

**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.**

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**Eric L. Phillips**  
**State Hearing Officer**