



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

April 11, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held April 4, 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) and a WV WORKS cash assistance 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 and WV WORKS is based on current policy and regulations. Some of these regulations state that when an assistance group has been issued more SNAP or WV WORKS cash assistance 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 and WV WORKS cash assistance benefits in which you were not entitled as a result of an unintentional client 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 \$250.00 and WV WORKS cash assistance claim in the amount of \$2208.00.

Sincerely,

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

cc: Erika Young-Chairman, Board of Review
Lori Woodward, Repayment Investigator

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

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

Respondent,

v.

**ACTION NO.: 12-BOR-673 WWV
12-BOR-671 SNAP**

**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 15, 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.

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:

---- ----, Respondent

Lori Woodward, 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 an over issuance of SNAP and WV WORKS cash assistance.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 20.2 and 20.3

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Combined Application and Review Form dated March 20, 2008
- D-2 Signed Statement from ---- ---- dated December 5, 2008
- D-3 Signed Statement from ---- ---- dated May 4, 2010
- D-4 Statement from ---- ---- dated May 4, 2010
- D-5 Information from ---- High School dated November 17, 2008
- D-6 Food Stamp Claim Determination
- D-7 Cash Assistance Claim Determination
- D-8 Notification of Cash Assistance and/or School Clothing Allowance Overpayment dated January 23, 2012
- D-9 Notification of Supplemental Nutrition Assistance Program Overissuance dated January 23, 2012
- D-10 Hearing Request
- D-11 West Virginia Income Maintenance Manual Chapter 1.2, 1.4, 9.1, 15.2
- D-12 West Virginia Income Maintenance Manual Chapter 20.2
- D-13 West Virginia Income Maintenance Manual Chapter 20.3

VII. FINDINGS OF FACT:

- 1) On January 23, 2012, the Department issued notification to the Respondent (Exhibit D-8 and Exhibit D-9) informing her of an over issuance of Supplemental Nutrition Assistance Program, hereinafter SNAP, benefits and WV WORKS cash assistance benefits. These notices indicate that a claim was established to seek repayment of the over issued benefits due to a client error.

- 2) Ms. Lori Woodward, Repayment Investigator testified that the Respondent received an over issuance of SNAP benefits in the amount of \$250.00 and WV WORKS cash assistance in the amount of \$2208.00 for the time period of March 11, 2008 through October 31, 2008.
- 3) The Respondent initiated an application for SNAP and WV WORKS cash assistance on March 11, 2008 and completed an interview for assistance (Exhibit D-1) with the Department on March 20, 2008. During the application, the Respondent reported that her household consisted of herself and her son, ----.
- 4) Ms. Woodward testified that the Department became aware that ---- had been residing with his uncle, ----, and grandmother since February, 2008. ---- provided signed sworn statements (Exhibit D-2 and Exhibit D-3) that ---- had resided at his residence of -----, West Virginia since February 2008. Additionally, Ms. Woodward presented a statement from ----'s neighbor (Exhibit D-4), ----, affirming ----' residence with ---- and attendance verification (Exhibit D-5) from ---- High School which documents ---- as ----' legal guardian and the child's residence of ----, West Virginia.
- 5) Ms. Woodward testified that it is the responsibility of the applicant to provide true and accurate information regarding their circumstances of face the possibility of repayment of benefits or disqualification. Based on the residency information, Ms. Woodward indicated that repayment claims based on an unintentional client errors were written in the amount of \$250.00 for SNAP assistance (Exhibit D-6) and WV WORKS \$2208.00 (Exhibit D-7) for the period of March, 2008 through October, 2008.
- 6) The Respondent provided testimony concerning emotional and physical conflicts between herself and her family members. The Respondent acknowledged that her son split his residency between her home and her mother's and brother's home during the timeframe of February, 2008 through October, 2008 and indicated that she provided cash assistance and food to her son during this timeframe. The Respondent believed that the repayment should be split by fifty percent because her son resided at the additional address.
- 7) 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.
- 8) 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) Evidence reveals that the Respondent incorrectly reported her son as a member of her household while he was residing at his uncle's residence. This error resulted in an over issuance of SNAP and WV WORKS cash assistance for the timeframe of March, 2008 through October, 2008.
- 3) The Department's proposal to establish and seek collection of a repayment claim based on a client 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 \$250.00 and a WV WORKS cash assistance repayment claim in the amount of \$2208.00.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ day of April, 2012.

Eric L. Phillips
State Hearing Officer