



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

Earl Ray Tomblin
Governor

BOARD OF REVIEW
9083 Middletown Mall
White Hall, WV 26554

Karen L. Bowling
Cabinet Secretary

April 23, 2015



RE: [REDACTED] v. WVDHHR
ACTION NO.: 15-BOR-1539

Dear Mr. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

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

Encl: Claimant's Recourse to Hearing Decision
Form IG-BR-29

cc: Rebecca Pancake, RI, WVDHHR

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

██████████,

Claimant,

v.

Action Number: 15-BOR-1539

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

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on April 21, 2015, on an appeal filed March 13, 2015.

The matter before the Hearing Officer arises from the March 2, 2015 decision by the Respondent to establish a Supplemental Nutrition Assistance Program (SNAP) repayment claim against the Claimant.

At the hearing, the Respondent appeared by Rebecca Pancake, Repayment Investigator. The Claimant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Benefit Recovery Referral #2000227542 (referral date 8/22/14)
- D-2 Investigative Findings for Claim #2000227542
- D-3 WV Income Maintenance Manual §20.2
- D-4 Code of Federal Regulations 7 CFR §273.18
- D-5 Claimant Notice dated 3/2/15, calculations of claim amount and repayment agreement
- D-6 Case comments documented during contact with Claimant on March 6, 2015
- D-7 Claimant's written request for hearing, received 3/13/15
- D-8 Case comments documented during a pre-hearing conference with Claimant on 3/25/15
- D-9 Food Stamp Claim Determination with supporting eligibility calculations and issuance history for claim #2000227542

* SNAP is the current name for the program formerly known as the Food Stamp Program. Some of the policy and forms provided have not been updated to reflect the name change.

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) On March 2, 2015, Respondent issued a notice (D-5) to the Claimant, advising that he received \$7,857 in Supplemental Nutrition Assistance Program (SNAP) benefits during the period of July 1, 2011 through June 30, 2012 to which he was not entitled to receive. As a result, a repayment claim has been established against the household.
- 2) Respondent's representative proffered testimony to indicate that the benefit recovery referral initially included pursuing repayment of SNAP benefits retroactive to July 2010 (D-1), but it became clear the Claimant was out of the SNAP Assistance Group (AG) for a brief period due to domestic issues. Respondent indicated, however, that it has confirmed (D-2) the Claimant was residing in the home with [REDACTED], and their children, during the period for which the SNAP repayment claim has been calculated.

Respondent noted that [REDACTED], the woman with whom the Claimant resided and shared common children, completed applications for SNAP benefits during the repayment period and failed to report the Claimant was in the home, or to include his employment income. Respondent acknowledged that while the Claimant did not apply for SNAP benefits, according to policy, he and his employment income should have been included in the SNAP AG. As a result, a SNAP (Food Stamp) Claim Determination (D-9) has been completed that includes the AG's corrected monthly SNAP benefit amount for the period July 2011 through June 2012. This document confirms the Claimant's AG received \$7,857 in SNAP benefits to which it was not legally entitled.

- 3) As a matter of record, the Claimant acknowledged that he was residing with [REDACTED] and their three (3) children during the period for which the Respondent is pursuing SNAP repayment, however, he indicated that he did not think it was fair that he should have to repay benefits when Ms. [REDACTED] is the individual who was guilty of fraud. The Claimant indicated that he was aware his family was receiving SNAP benefits during that period, but did not know that Ms. [REDACTED] failed to report him in the home or verify his earnings.

APPLICABLE POLICY

Pursuant to the West Virginia Income Maintenance Manual (WVIMM) §9.1.A, a group of individuals who live together, and for whom food is customarily purchased and prepared together, is an Assistance Group (AG). Natural or adopted children and stepchildren who are under 22 years of age, and who live with a parent, must be in the same AG as that parent.

The WVIMM, at §20.2, and 7 CFR §273.18 of the Code of Federal Regulations, provide that 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 entitlement the AG received and the entitlement the AG should have received.

Policy found in the WVIMM, §20.2.E provides direction regarding the collection of a SNAP claim and states that collection action is initiated against an AG that received an over issuance. When the AG composition changes, collection is pursued against any and all AG members, which includes 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.

DISCUSSION

The Claimant proffered credible testimony to indicate that he was unaware that Ms. [REDACTED] failed to report him in the home, or report his employment earnings, when the household received SNAP benefits. Policy, however, clearly indicates that the Claimant and his income should have been included in the AG because he and Ms. [REDACTED] resided in the same home with their children. While the Claimant contended that he should not have to repay benefits received as a result of Ms. [REDACTED] alleged fraudulent behaviors, he has been correctly identified as a liable debtor. The repayment claim (\$7,857) is the difference between the entitlement the AG received and the entitlement the AG should have received.

CONCLUSIONS OF LAW

- 1) Policy provides that when there has been an over issuance of SNAP benefits, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or an Intentional Program Violation (IPV) repayment claim.
- 2) Pursuant to state and federal regulations, the Claimant is a liable debtor.
- 3) The Department has acted within policy guidelines in pursuing SNAP repayment from the Claimant in the amount of \$7,857.

DECISION

The decision of the Respondent to establish a \$7,857 SNAP repayment claim against the Claimant is **affirmed**.

ENTERED this ____ Day of April 2015.

**Thomas E. Arnett
State Hearing Officer**