



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
203 East Third Avenue  
Williamson, WV 25661

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

April 26, 2017



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-1385

Dear Ms. [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,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

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

cc: Brian Shreve, Repayment Investigator

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

██████████,

**Appellant,**

**v.**

**Action Number: 17-BOR-1385**

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on April 4, 2017, on an appeal filed March 2, 2017.

The matter before the Hearing Officer arises from the February 17, 2017 decision by the Respondent to establish a repayment claim against the Appellant's receipt of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by the Department's Representative, Repayment Investigator Brian Shreve. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was her husband ██████████. All participants were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notes from anonymous phone call and print-out of Appellant's Driver's License information from the WV Department of Motor Vehicles (DMV)
- D-2 Print-out of Facebook page for Appellant's spouse, retrieved on January 9, 2017
- D-3 Print-out of Facebook page for Appellant, retrieved on January 9, 2017
- D-4 Print-out from WV Department of Motor Vehicles, vehicle registration information for truck owned by Appellant's spouse, and print-out of household mailing address from Appellant's SNAP case record
- D-5 Form IG-IFM-5b, Employment Data Request from Department to ██████████ of ██████████, completed on January 16, 2017
- D-6 SNAP Case Recordings, dated May 20 – July 5, 2016
- D-7 SNAP Case Recordings, dated December 8, 2016 – February 9, 2017

- D-8 Form ES-FS-5, Food Stamp (SNAP) Claim Determination
- D-9 WV Income Maintenance Manual (WV IMM), Chapter 20, §20
- D-10 Letter from Department to Appellant, dated February 17, 2017
- D-11 SNAP Case Recordings, dated May 4 - 17, 2016

**Appellant's Exhibits**

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence during 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) The Appellant's household received SNAP benefits from June through December 2016. On May 20, 2016, the Appellant called the Department to report her husband no longer lived in her household (Exhibit D-6).
- 2) In November 2016, the Department received anonymous information to the effect that the Appellant's husband worked as a cross-country truck driver during the week and came home for weekends and holidays.
- 3) In January 2017, the Appellant reported to the Department during a SNAP benefit review that her husband had returned to her home. He was added to the household effective February 2017.
- 4) In investigating the allegation that the Appellant's husband lived in the Appellant's home when she reported that he had moved out, the Department's representative, a repayment investigator, determined the husband worked for [REDACTED] in [REDACTED]. He sent a Form IG-IFM-5b to [REDACTED] asking to verify the spouse's employment.
- 5) A Human Resources / Payroll employee at [REDACTED] completed the Form IG-IFM-5b (Exhibit D-5) on January 16, 2017, and returned it to the Department shortly thereafter. The form indicated the Appellant's husband worked from May 16 to December 9, 2016, and that he reported his mailing address as [REDACTED], the same address as the Appellant.
- 6) The Department created a repayment claim against the Appellant based on the belief that her husband financially contributed to her household and lived in her home during weekends. The amount of the repayment claim was \$1271 (Exhibit D-8).
- 7) The Department sent the Appellant a letter (Exhibit D-10) on February 17, 2017, informing her of the repayment claim.
- 8) The Appellant requested a fair hearing to protest the Department's establishment of this repayment obligation.

## **APPLICABLE POLICY**

The WV Income Maintenance Manual (WV IMM), Chapter 9, §9.1.D.2. reads as follows:

**EXAMPLE:** Mr. [REDACTED] works out of state and comes home on weekends and holidays. When he returns to West Virginia, he stays with his wife and 3 children who receive SNAP benefits. He is not eligible to be included in the AG with his wife and children, because they do not consider that he lives with the AG while he is working. Only the amount of income he makes available to his family is counted as income.”

The WV IMM, Chapter 20, §20.2 reads, “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.”

WV IMM, Chapter 20, §20.2.C.1 reads, “A UPV claim is established when . . . an unintentional error made by the client resulted in the overissuance . . .”

## **DISCUSSION**

The Department established a repayment obligation against the Appellant because she reported that her husband had moved out of her household, while he allegedly continued to contribute to the household and returned home on weekends. The Department’s representative provided evidence in the form of a photograph from the husband’s Facebook page posted on November 25, 2016 (Exhibit D-2) showing the husband and the Appellant together, and several photographs from the Appellant’s Facebook page (Exhibit D-3), showing the Appellant and her husband together in her home during the holidays. The Department’s representative also provided a print-out from the WV DMV indicating the husband listed the Appellant’s mailing address on his vehicle registration (Exhibit D-4). Finally, the Department’s representative provided a form he sent to the husband’s employer, Form IG-IFM-5b, asking the employer to provide information regarding his employment. The employer, [REDACTED] of [REDACTED], returned the form in January 2017 (Exhibit D-5), reporting that the husband had worked there from May 16 to December 9, 2016, and had listed the Appellant’s mailing address as his address.

The Appellant testified that she and her husband had separated, and he had gone to work for the trucking company in May 2016 as a long-haul truck driver. She testified that he lived in the cab of his truck from May to December 2016, but he came home on certain weekends and during holidays. She stated that when he came home, he stayed with his parents, not with her.

The Appellant’s husband testified that he moved out of state to work because he and the Appellant were having difficulties in their marriage, and they argued frequently. He testified that he came home every other weekend or every third weekend, and when he did, he stayed with his parents. He stated that while working, he lived in the sleeper cab of his truck, a long-haul semi-trailer tractor or “semi.” He stated that he has back problems, and has worked intermittently for years. He stated he would get a job, and the Appellant would call the Department to have him removed from her SNAP benefits, then he would not be able to keep his job due to his health benefits, whereupon the Appellant would call to have him added back to her SNAP assistance group.

The Department's representative established the repayment obligation against the Appellant largely based on circumstantial evidence. The Appellant's husband may have listed the Appellant's mailing address as his own on his vehicle registration and his employment data from the [REDACTED] trucking company simply out of convenience, if he did not have a permanent residence.

However, it is beyond mere coincidence that the Appellant's husband moved out of the household just when he obtained employment and the Appellant and he reconciled just when he quit his job. Also, it is not believable that the husband left the Appellant and did not contribute financially to her household from May through December, regardless of where he lived. The Appellant's husband testified that his wife would have him removed from her household whenever he would get a job, then have him added back after he quit.

The Department acted correctly to impose a repayment against the Appellant's receipt of SNAP benefits.

### **CONCLUSION OF LAW**

The WV Income Maintenance manual, in Chapter 20, §20.2, requires the establishment of SNAP repayment claims whenever there has been an excessive issuance of SNAP benefits. As such, the Department correctly established a SNAP repayment claim against the Appellant.

### **DECISION**

It is the decision of the State Hearing Officer to UPHOLD the Department's decision to establish a SNAP repayment claim in the amount of \$1271 against the Appellant.

**ENTERED this 26<sup>th</sup> Day of April 2017.**

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**Stephen M. Baisden  
State Hearing Officer**