



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

July 1, 2005

Dear _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 14, 2005. Your hearing request was based on the Department of Health and Human Resources' decision to establish a Food Stamp and Cash Assistance claim against your household.

In arriving at a decision, the State Hearings 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 the Food Stamp and Cash Assistance programs is based on current policy and regulations. Some of these regulations state as follows: When an assistance group has been issued more Food Stamps or Cash Assistance than it was entitled to receive, corrective action is taken by establishing a claim. Collection action is initiated against the Assistance Group which received the overpayment. All claims, whether established as a result of an error on the part of the Agency or the household, are subject to recoupment. (West Virginia Income Maintenance Manual ' 10.4, C & 20.2)..

The information, which was submitted at your hearing, revealed that you were not residing in the State of West Virginia during the months of November 2004 thru January 2005 and therefore were not eligible for benefits received from the State of West Virginia during those months.

It is the decision of the State Hearing Officer to uphold the action of the Department to establish and collect a Food Stamp claim in the amount of \$1068. and Cash Assistance claim in the amount of \$512.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Crossland, DHHR

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

_____,

Claimant,

Action Number: _____

**v.
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 concluded on June 14, 2005 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 June 14, 2005 on a timely appeal, filed April 11, 2005.

It should be noted here that the claimant's benefits have not been continued pending a hearing decision. This claimant's benefits were closed due her being a non-resident of West Virginia.

II. PROGRAM PURPOSE:

The Programs entitled Food Stamps and WV Works is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of the 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.

WV Works was created by Senate Bill 140, Article 9 of the West Virginia Code and the Temporary Assistance to needy Families Block Grant, Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The purpose of WV Works is to provide assistance to needy families with children so they can be cared for in their own home, reduce dependency by promoting job preparation, work and marriage. The goals of WV Works are to achieve more

efficient and effective use of public assistance funds, reduce dependence on public programs by promoting self-sufficiency and structure the assistance programs to emphasize employment and personal responsibility.

III. PARTICIPANTS:

_____, claimant
Karen Crossland, DHHR Repayment Investigator

Presiding at the Hearing was Sharon K. Yoho, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Agency was correct in their actions to establish and collect an overpayment of Food Stamps and WV Works, cash assistance.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 1.2, 2.2, 8.2, and 20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Food Stamp Claim Determination
- D-2 Cash Assistance Claim Determination
- D-3 West Virginia Income Maintenance Manual Policy § 1.2
- D-4 West Virginia Income Maintenance Manual Policy § 2.2
- D-5 West Virginia Income Maintenance Manual Policy § 8.2
- D-6 West Virginia Income Maintenance Manual Policy § 20.2

VII. FINDINGS OF FACT:

- 1) Ms. _____ applied and was found eligible for Food Stamps and Cash Benefits in the month of August 2004.
- 2) Ms. _____ was residing in [REDACTED] County with no permanent physical address. Her benefits were approved in August to be delivered to her mother's address.
- 3) The claimant left the State of West Virginia soon after the approval of her benefits. She traveled to the State of [REDACTED] initially to attend a funeral with plans to return to West Virginia.

- 4) The claimant never returned to West Virginia to reside, but continued to use the electronic benefits being issued by the State of West Virginia.
- 5) The caseworker was notified by the Electronic Benefits office of the constant benefit usage in the State of [REDACTED]. The [REDACTED] transactions began on September 26, 2004 and continued.
- 6) The case was closed effective with the month of February 2005 due to non-residency.
- 7) Ms. _____ was made aware of her obligation to report changes in her address and circumstances; but failed to do so.
- 8) **WV Income Maintenance Manual § 1.2:**
The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility. The client must be instructed that his failure to fulfill his obligation may result in repayment of benefits.
- 9) **WV Income Maintenance Manual § 2.2:**
Reportable changes must be reported within 10 days of the date the change becomes known to the assistance group.
- 10) **WV Income Maintenance Manual § 8.2:**
To be eligible to receive benefits, the client must meet the eligibility requirements of residency.
The client must live within the borders of West Virginia.
- 11) **WV Income Maintenance Manual § 20.2**
Collection action is initiated against the assistance group which received the over issuance. A claim is established when: An unintentional error made by the client resulted in the over issuance.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear that benefits issued by the WV Department of Health and Human Resources are for persons residing within its borders.
- 2) When an assistance group is issued benefits which it was not entitled to receive, policy stipulates that collection action be taken against the assistance group who received the benefits.

IX. DECISION:

It is the decision of this Hearing Officer that the claimant was not residing within the borders of West Virginia during the months of November 2004 thru January 2005. Ms. _____ was issued benefits, which must be repaid. I rule to uphold the agency in its decision to establish and collect a Food Stamp claim for \$1068 and a Cash Assistance claim for \$512.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 1st Day of July, 2005.

Sharon K. Yoho
State Hearing Officer