



Rhode Island Executive Office of Health and Human Services  
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Date: August 4, 2015

Docket # 15-1363

Hearing Date: July 27, 2015



## **ADMINISTRATIVE HEARING DECISION**

The Administrative Hearing that you requested has been decided against you. During the course of the proceeding, the following issue(s) and Agency regulation(s) were the matters before the hearing:

**THE DEPARTMENT OF HUMAN SERVICES (DHS) RULE AND REGULATIONS  
RHODE ISLAND PROGRAM (SNAP)  
SECTION: 1022.10 (7 CFR 273.18) AMOUNT OF THE CLAIM REFERRAL  
1024.10 (7 CFR 273.18) CRITERIA FOR COLLECTION ACTION  
1024.20 (7 CFR 273.18) INITIATING THE COLLECTION OF CLAIMS**

The facts of your case, the Agency regulation(s) and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the Appellant) and Janet Surprenant the Agency Representative.

Present at the hearing were: You (the Appellant) and Janet Surprenant the Agency Representative.

**ISSUE:** Did the Appellant receive more SNAP benefits for the time period of November 1, 2014 to April 30, 2015 than he was eligible to receive?

### **DHS RULES AND REGULATIONS:**

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Rules and Regulations.

### **APPEAL RIGHTS:**

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

## **DISCUSSION OF THE EVIDENCE:**

### **The Agency Representatives testified:**

- The Agency mailed to the Appellant a "Demand Letter for Over issuance" (Unintentional Household Error) on June 3, 2015 informing him that it had been determined that his household received \$2,010.00 more SNAP benefits that he was eligible to receive during the period of November 1, 2014 to April 30, 2015.
- The Agency cited that the error occurred when the Appellant failed to report his spouse's wages from her employer when she returned to work at the end of August 2014.
- The Appellant filed his Appeal on June 10, 2015 indicating that he had submitted all of the requested documents and doesn't understand how he received more benefits that he was eligible for.
- On April 11, 2015, the agency field worker submitted the results of an interim report that had been worked on in January 2015 that the combined paystubs of the Appellant and his spouse make the household over income for SNAP; they were above 135% of the Federal Poverty Level. As a result the Appellant's SNAP case closed April 30, 2015.
- On August 8, 2014, a notice issued to the Appellant, telling him that he needed to provide his spouse's paystub from her Pawtucket School Department position and to the best of the agency's knowledge, the Appellant's spouse's paystubs were not received and therefore the Appellant's SNAP benefits were based solely on his paystubs that were submitted.
- The Appellant's household received \$335.00 per month in SNAP benefits for November and December 2014 and for January, February, March and April 2015; had both the Appellant and his spouse's paystubs both been counted, they would have been found over income and not have been eligible for SNAP benefits.
- The Appellant received \$2,010.00 more than he should have in SNAP benefits for the time frame of November 1, 2014 to April 30, 2015.
- The agency isn't stating that the Appellant did anything fraudulent or that the spouse' paystubs were not submitted, only that at the time of review, the agency did not have the spouse's paystubs.

### **The Appellant testified:**

- The Appellant gets paid every two weeks and his spouse gets paid every week.
- When he was requested by the agency to submit paystubs, both the Appellant's and his spouse's paystubs were submitted together.
- The Appellant believes that he is now eligible for SNAP since his spouse only is working part time; he will re-apply for SNAP shortly.

## **FINDINGS OF FACT:**

- On August 8, 2014, a notice issued to the Appellant, telling him that he needed to provide his spouse's paystub from her Pawtucket School Department position and to the best of the agency's knowledge, the Appellant's spouse's paystubs were not received and therefore the Appellant's SNAP benefits were based solely on his paystubs that were submitted.
- The Appellant's household received \$335.00 per month in SNAP benefits for November and December 2014 and for January, February, March and April 2015; had both the Appellant and his spouse's paystubs both been counted, they would have been found over income and not have been eligible for SNAP benefits
- On April 11, 2015, the agency field worker submitted the results of an interim report that had been worked on in January 2015 that the combined paystubs of the Appellant and his spouse make the household over income for SNAP; they were above 135% of the Federal Poverty Level. As a result the Appellant's SNAP case closed April 30, 2015.
- The Agency mailed to the Appellant a "Demand Letter for Over issuance" (Unintentional Household Error) on June 3, 2015 informing him that it had been determined that his household received \$2,010.00 more SNAP benefits that he was eligible to receive during the period of November 1, 2014 to April 30, 2015.
- The Agency cited that the error occurred when the Appellant failed to report his spouse's wages from her employer when she returned to work at the end of August 2014 or as a result of the agency not counting the Appellant's spouse pay-stubs.
- The Appellant filed his Appeal on June 10, 2015 indicating that he had submitted all of the requested documents and doesn't understand how he received more benefits that he was eligible for.

## **CONCLUSION:**

The issue to be decided is whether the Appellant received more SNAP benefits for the months of November 1, 2014 through April 30, 2015 that he was eligible to receive.

An Agency field worker submitted the result on April 11, 2015 of an interim report from January 2015. This interim report showed that the pay-stubs of both the Appellant and the Appellant's spouse, when combined, make the household over income for SNAP benefits. The Appellant's household was found to be above the 135% of the Federal Poverty Level (FPL) and therefore over income for SNAP. As a result of being found over income and had received benefits, a "Demand Letter for Over Issuance (Unintentional Household Error) issued to the Appellant on June 3, 2015.

The "Demand Letter" to the Appellant informed him that his household received \$2,010.00 more SNAP benefits that he was eligible to receive during the months of November 1, 2014 to April 30, 2015. The error was a result of the Appellant's spouse's income was not factored in as part of the household income when she returned to work

at the end of August of 2014. The Agency is not indicating that the Appellant purposely did not submit his spouse's pay-stub, only that when the Agency calculated the Appellant's household income, only the Appellant's pay-stubs were located for review. The Agency testified that the spouse's pay-stubs could have become separated from the Appellant's pay-stubs and therefore not factored in.

Due to the Appellant receiving SNAP benefits when he should not have, the Agency issued \$2,010.00 in SNAP benefits that they need to recoup. The Appellant received \$335.00 in month for November and December 2014 and for January, February, March and April 2015, totaling \$2,010.00 in over paid SNAP benefits.

The Appellant testified that he submitted both his and his spouse's pay-stubs and that he should not be penalized, especially since he cannot afford to repay \$2,010.00. The Appellant is paid every two weeks and his spouse is paid every week; they are on a very tight budget. Also, the Appellant testified that he would not have done anything fraudulent.

In accordance with DHS Policy § 1024.10 Criteria for Collection Action,

“The agency must initiate collection action against the household on all inadvertent household or agency error claim...”

Although there was a delay in reviewing and reporting the findings from the January 2015 Interim Report, an agency field worker found an overpayment of SNAP benefits to the Appellant. As a result the overpayment for the months of November 2014 through April 2015, a “Demand Letter” issued by the Agency to the Appellant seeking the recoupment of \$2,010.00 as per DHS Policy § 1024.20 Initiating the Collection of Claims.

The Appellant did not contest how his household income was calculated or the amount of income of that the Appellant and his spouse have. The Appellant is contesting that he is being penalized for another's error and that he is being forced to repay the \$2,010.00 will cause great hardship.

In conclusion, the Appellant began the recertification process for SNAP benefits which would require the submission of pay-stubs for the Appellant and his spouse. When the Agency calculated the income of the household, only the Appellant's pay-stubs were found and used to determine the eligibility of SNAP benefits. As part of an interim report from January 2015, it was determined that the Appellant was receiving SNAP benefits while his household had an income greater than 135% of the FPL. Unfortunately, this error was not found until April 11, 2015.

On June 3, 2015, the Agency issued a “Demand Letter” to the Appellant informing him that an error had occurred. The error being that the Appellant's spouse's wages were not submitted when she returned to work at the end of August of 2014. Due to the Appellant's spouse's wages not being factored into the household income, they

received \$335.00 in SNAP benefits each month from November 1, 2014 through April 30, 2015 that they were not eligible to receive. Furthermore, federal policy mandates that regardless if the error is unintentional or an agency error, the individual receiving the benefit must repay the overpayment.

After a careful review of the Agency's policies, as well as the evidence and testimony given, this Appeals Officer finds that the Appellant was not eligible to receive SNAP benefits from November and December 2014 and January, February, March and April 2015; and therefore must repay the sum of \$2,010.00. The Appellant's request for relief is therefore denied.

A handwritten signature in cursive script, appearing to read "Thomas E. Evans". The signature is written in black ink and is positioned above the typed name of the Appeals Officer.

Appeals Officer

## APPENDIX

## RHODE ISLAND DEPARTMENT OF HUMAN SERVICES

### **1022.10.25** (7 CFR 273.18) **Amount of the Claim Referral** REV: 07/2002

After excluding those months which are more than twelve (12) months prior to the date the over issuance of benefits was discovered, the field representative determines the correct amount of SNAP benefits the household should have received for those months the household participated while the over issuance was in effect.

The actual steps for calculating a claim are:

- \* Determine the correct amount of benefits for each month that a household received an overpayment.
- \* Do NOT apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim.
- \* Subtract the correct amount of benefits from the benefits actually received. The result is the amount of the overpayment.
- \* Reduce the overpayment amount by any EBT benefits expunged from the household's EBT benefit account. The difference is the amount of the claim.

The agency representative determines that amount for active cases by entering the correct information in the appropriate months in STAT to reflect the actual income, resources, or household circumstances during the period of the overpayment. The agency representative records the circumstances pertaining to the over issuance in the case notes.

The agency representative refers the overpayment to CCR/Fraud and documents the reason for the overpayment, the time period and amount of the overpayment, and enters a reference to the above-mentioned case note entry. The CCR/Fraud Unit then reviews each claim and institutes appropriate collection action. Before initiating collection action, the CCR Unit verifies, as appropriate, that the SNAP benefits were utilized. If the benefits were utilized, collection action is initiated as outlined in Section 1024.

### **1024.10** (7 CFR 273.18) **CRITERIA FOR COLLECTION ACTION** REV: 07/2002

The agency must initiate collection action against the household on all inadvertent household or agency error claim referrals unless the claim is collected through offset, or one of the following conditions applies:

- \* The amount of the claim referral is less than one hundred twenty-five dollars (\$125), and the claim cannot be recovered by reducing the household's allotment. This threshold does NOT apply for overpayments discovered through the quality control system.
- \* The agency has documentation which shows that the household cannot be located.

The agency may postpone collection action on inadvertent household error claims in cases where an over issuance is being referred for possible prosecution or for administrative disqualification, and the agency determines that collection action may prejudice the case.

**1024.20 (7 CFR 273.18)      INITIATING THE COLLECTION OF CLAIMS**  
 REV: 02/2006

A written demand letter entitled, "Demand Letter for Overpayment" is mailed or provided to the household by the CCR/Fraud Unit.

The claim is considered established as of the date of the initial demand letter or written notification.

This letter must inform the household of: o The amount owed;

- \* The intent to collect from all adults in the household when the overpayment occurred;
- \* The type (Intentional Program Violation, Inadvertent Household Error, or Agency Error) and reason for the claim;
- \* The time period associated with the claim; o How the claim was calculated; and
- \* The phone number to call for more information about the claim.
- \* That, if the claim is not paid, it will be sent to other collection agencies who will use various collection methods to collect the claim.
- \* The opportunity to inspect and copy records related to the claim.
- \* Unless the amount of the claim was established at a hearing, the opportunity for a hearing on the decision related to the claim. The household has ninety (90) days to request a hearing and is notified of available free legal representation.
- \* That, if not paid, the claim will be referred to the Federal government for federal collection action.
- \* That, if the claim become delinquent, the household may be subject to additional processing charges.
- \* That the CCR/Fraud Unit may reduce any part of the claim if it believes that the household is not able to repay the claim.

- \* The household can make written agreement to repay the amount of the claim prior to being referred for Federal collection action.
- \* The due date or time frame to either repay the claim or make arrangements to repay the claim, thirty (30) days from the date of the initial notification or demand letter, unless the CCR/Fraud Unit is able to impose allotment reduction.
- \* If allotment reduction is to be imposed, the percentage to be used and the effective date.

For all types of claims: agency error, inadvertent household error, and intentional program violation, the household must also be informed: if the household is participating in the program, that it must repay the entire amount of the claim in cash, check, money order, or funds from an EBT benefit account within ten (10) days of the notice. The household must also be informed that if it does not repay the entire balance, its benefits shall be reduced by the appropriate reduction formula listed in Section 1024.35.20. If the household is not participating in the program, it must be informed that it may elect to repay the entire amount of the claim in cash, check, or money order all at once, repay part of the claim, and then repay the rest in weekly or monthly installments.

As outlined above, the household representative checks off which method of repayment s/he has selected, signs the repayment agreement, and mails it back to the CCR/Fraud Unit.

Any household against which the agency has initiated collection action must be informed of its right to request renegotiation of any repayment schedule to which the household has agreed should the household's economic circumstances change.

If the household pays the claim, payment is accepted and submitted to FNS in accordance with the procedures outlined in Section 1024.45.

## **NOTICE OF APPELLATE RIGHTS**

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.