



Rhode Island Executive Office of Health and Human Services
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July 3, 2015

Docket # 15-1110
Hearing Date: June 25, 2015



ADMINISTRATIVE HEARING DECISION

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

THE DHS POLICY MANUAL: Supplemental Nutrition Assistance Program
SECTION: 1024.10 Criteria for Collection Action
SECTION: 1022.10 Inadvertent Household/Agency Error Claim
SECTION: 1022.10.10 Agency Error Claim

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 Agency representatives: Janet Surprenant, Christine Messier, Betty Perez, and the Food Stamp Corrective Action Unit.

Present at the hearing were: You (the appellant), your husband, and Agency representative Janet Surprenant.

ISSUE: Is the appellant responsible for repayment of a 2013 over issuance of SNAP benefits received as a result of Agency error?

DHS Rules and Regulations:

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

APPEAL RIGHTS:

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

DISCUSSION OF THE EVIDENCE:

The Agency representative testified:

- On February 25, 2015 we worked a referral sent to the Claims and Collections Unit from the DHS IEVS (Income and Eligibility Verification System) unit due to an overpayment of SNAP benefits resulting from unemployment benefits which were not calculated by DHS for this household.
- The payment period was March 1st through May 31, 2013.
- The IEVS unit sent the referral electronically on January 13, 2015.
- With the collections referral were the documents from unemployment benefits verifying the dates the benefits were paid to the clients' husband during the time frame.
- The Department of Labor and Training submitted the earned income information (Agency IV). It shows 5 weeks of gross benefits of \$471.00 totaling \$2350 for the month of March, and 4 weeks totaling \$1884 in April, and on May 13th, the household became eligible again.
- The gross income allowed at the time was \$1640.00, and had the income been reported the family would have been way over the \$1600.
- We are submitting a copy of the policy today, but we do not send this out prior to hearing except to the hearing office after the appeal is filed.
- They received an original notice/award letter dated March 26, 2013. They were awarded the \$376 for February 28-March 31, 2013. Beginning April 1, "you will receive \$342 on the first of each month." If gross income exceeds \$1640 you must report within 10 days.
- They were not due for another recertification for another year.
- Upon researching this case, an Agency error was determined. Our interface with the Department of Labor, IRS, Social Security, etc. dropped a UNIA (unemployment compensation benefits) panel for the appellant's husband's workers comp. which tells us of income coming into the household.

- No worker touched this, so the Agency is accepting this as an error.
- In February 2015, this was found through the interface and began processing the overpayment. The record does not show this information was received prior to this time.
- In response to the appellants' questioning of the two SNAP letters-The Demand letter (2.25.15) allows 90 days to appeal, but also notes 10 days to respond or action will be taken. If there is no response within 10 days, the second letter for payment must go out, and the Agency must set up a claim for the billing office out of the central office in Cranston. The appellant does have 90 days to request the hearing, but after two weeks, the systems is set up in the claims and collections unit. The Agency agrees that the appellant does not have to actually pay within those two weeks.
- The Agency will send a copy of the Federal policy requested, but the DHS regulations should not be discrepant from the Federal policy.

The appellant and her husband testified:

- He applied on line in February 2013 as previously mentioned, and has submitted the online copy of the receipt of application.
- On March 26, 2014 his caseworker sent a letter allowing an award of \$342.00 per month beginning March 1, 2013, and that is what the family received, what they were told they would receive.
- As far as the overpayment policy Section 1024.10 brought up by the Agency-this policy was never presented or made clear to any of us during the application process, or in anything we signed.
- Nowhere in the application (DHS-2) brought up earlier in testimony does it cite or direct us to the overpayment policy.
- The application does not ever tell to us that we must pay back any money given to us due to an Agency error up to or beyond two years after the fact.

- I feel this is wrong and we should not have to pay back money we were told was going to be given to us, and then was given to us.
- Supporting documents show that we were told this.
- I feel we should have to sign anything, such as the policy, if we are going to be held to such a finding out multiple years later that there was an Agency error.
- I understand the case does show the earned income for the month of March, and it does say that the amount was more than we were qualified for in order to receive benefits, so going by those numbers we understand that we should not have received the benefits.
- We are not disputing the calculations which appear legit (legitimate), but we should never have been told we'd receive a certain amount.
- In no part in this process did we have any willful wrongdoing on our end, and if we had known we were paid more than we should have been we would have brought it up.
- In 2014 during a separate SNAP recertification we informed the Agency that the unemployment benefits were miscalculated, and we reported to them that I made more than they said we were which put us ineligible for benefits.
- We have a proven track record of being honorable, and having integrity and not trying to steal from the government or the state from the resources we use to help us during these difficult times.
- Now, we are in difficult times, and it is not feasible in the near future to pay back this \$661.
- The options for pay back were discussed prior to hearing, but I choose to allow this hearing take its course, and depending on what the decision is we will go from there.
- The possibility of paying back this money is there, because we are not looking to steal anything from the government, but caseworkers that did wrong should be held accountable and it should come back to them, and the Agency.
- There are multiple Agency errors just in this hearing-the first, being the demand letter for over issuance sent had been missing the second page (breakdown of overpayments) and we are just seeing this now; Second, after receipt of the

demand letter allowing 90 days to request an appeal, a second similar letter was received informing us we had 10 days to pay this amount to avoid further disciplinary action.

- This letter is strongly worded about penalties and court action and disciplinary action although we still have months to pay or appeal.
- So in closing I feel that this is wrong fundamentally and morally wrong when we are told we are going to get an amount, and are given the amount and about two years later we are told we are given the wrong amount, and until minutes before this hearing we were never told when, where, how much, how it was calculated, what the rules are, what the manual is and what the laws are. We have to go off just a letter and we did not see the break down. Everyone has agreed this is wrong, and that we did nothing wrong. The Agency made an error and it's unfortunate, and because these funds are coming from the Federal government we can do nothing.
- To our knowledge, during March through April 2013, we don't know of any time in which we did not submit something requested and based on what we did in 2014 we would have reported.
- I don't believe I was working when I first applied (2013), so the SNAP information should have reflected the correct amounts. If there was a better policy for determining error, these amounts could have been taken out of my 2014 benefits.
- Now I have a great fear that something will go wrong with my 2014 benefits already received.

FINDINGS OF FACT:

- On February 25, 2015 the Agency received a referral from the Claims and Collections Unit which identified an overpayment of SNAP benefits to the appellant's household for the period from March 1, 2013 through May 31, 2013.
- The Department of Labor and Training submitted earned income information showing the households 2013 gross unemployment benefits of \$2350 for March and \$1884 for April, both amounts in excess of \$1640.00 the allowable gross income at the time.

- An award letter to the appellant dated March 26, 2013 identified the following-a period of certification from February 28 through January 31, 2014; Benefits of \$342 beginning on March 1, 2013 and continuing until notification; the gross income eligibility standard established at \$1640.00; and, a breakdown of the SNAP calculation of benefits, including an unearned income monthly assessment of \$471.00.
- The appellant received a SNAP Demand Letter dated February 25, 2015 which included an RIFS 120A, and a Repayment Agreement Form. The letter indicated the amount of over issuance, cited the Agency error as a failure "to calculate your (your husband) Unemployment benefits", and allowed the right for an appeal within 90 days.
- The second page of the document-the calculation worksheet was absent from the notice.
- The appellant filed a timely appeal dated May 20, 2015.
- An administrative hearing was convened on June 25, 2015.
- The record of hearing was held open until June 26th for submission of additional evidence which was received.

CONCLUSION:

The issue to be decided is whether the appellant is responsible for repayment of a 2013 over issuance of SNAP benefits received as a result of Agency error.

Food Stamp Regulations establish "that the Agency must initiate action against the household on all inadvertent household or agency error claims."

There is no dispute that the appellant was receiving SNAP benefits in March/April 2013. There is no dispute regarding the unemployment figures used by the Agency, and there is no dispute that there was an overpayment of SNAP benefits which the Agency identified as an Agency error.

The Agency presents that they determined an overpayment of 2013 SNAP benefits when the interface with Federal sources, including the Department of Labor, identified that there had been unemployment compensation benefits for the appellant's husband at that time. Those benefits, when calculated for SNAP eligibility exceeded the allowable gross SNAP income which should have rendered the appellant's household ineligible for SNAP

benefits for the months of March and April 2013. Instead they were awarded \$342 per month which resulted in an overpayment of \$661 after adjusted calculations. The Agency accepted responsibility for the error but did not establish whether or not the appellant had initially submitted the correct amount, or any amount, or whether the Agency had committed an error. Despite this, the Agency had not determined correct eligibility, and testified that the regulations require repayment regardless of where the blame lies, i.e. with the appellant or the Agency.

The appellant and her husband did not dispute the unemployment figures submitted by the Department of Labor, which the husband testified seemed "about right". When presented with the 2013 eligibility figures in comparison to the gross income received for the months of March and April 2013, the couple did not dispute the overpayment. The appellant and her husband gave credible testimony that history has shown that they would have correctly reported their income in 2013 as they had corrected the Agency figures in 2014 when DHS had underreported their income. They strenuously objected to the timing of the notice (2015) and demand for repayment now. They testified that had they been informed in 2014 they could have corrected the error by applying 10% of their SNAP payments at that time toward repayment, rather than out of pocket payments at this time, when the current payback is not feasible due to their financial difficulties. The husband repeatedly testified that he felt the multiple Agency errors and his subsequent responsibility for those errors was "fundamentally and morally wrong". He further questioned the lack of any previous documents which would have outlined the regulations around the payback policies.

Despite the requirement of payback for overpayment, it should be established that upon further review of the record, the Agency was found to be at fault. A review finds that the figure used by the Agency (2013) in calculating the monthly unearned income for the household should have been the weekly amount. Thus, instead of calculating the benefits based on four weeks of payments, the figures were calculated using one week's payment. Thus the family was found eligible for an increased benefit based on the incorrectly low earnings figure assessed. The appellant was correct in stating that he would have, and did, provide the correct income to the Agency in 2013, and it appears to have been incorrectly applied.

Further review of the Agency regulations identify that the benefits overpaid are considered a Federal debt. Regulations establish that an over issuance caused by an agency error does not exempt repayment. However, further review of Regulations 1022.10 which are derived from 7CFR 273.18 identify that there are time frames within which the debt can be collected. The policy reveals that "claims include only those months of over issuance that have occurred within twelve (12) months of over issuance prior to the date the agency becomes aware of the over issuance. The date the error was determined per notice, was February 25, 2015. Twelve months prior would be February 2014, and the over issuance took place almost one year prior, in March 2013. Thus,

according to regulations, the appellant does not fall into the time frames established, and is no longer responsible for the Agency error and subsequent repayment.

After a careful review of the Agency's rules and regulations, the appellant and her husband do not have to repay the \$661.00 overpayment for SNAP benefits previously received. The appellant's request for relief is granted.

ACTION FOR THE AGENCY:

The agency is to rescind the February 25, 2015 Demand Letter and reissue a letter/or notice indicating that discharge of the claim has been completed and the appellant will no longer be held responsible for the overpayment.

A handwritten signature in black ink, appearing to read 'Karen Walsh', written in a cursive style.

Karen Walsh
Appeals Officer

APPENDIX

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) (Formerly called the Food Stamp Program)

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.

1022.10 (7 CFR 273.18) INADVERTENT HOUSEHOLD/AGENCY ERROR CLAIM

REV:07/2002

A claim is established against a household for an over issuance which was caused by a misunderstanding or an inadvertent error on the part of the household, including continuation of benefits pending a hearing decision; or is the result of an agency error.

Claims include only those months of over issuance that have occurred within twelve (12) months of over issuance prior to the date the agency becomes aware of the over issuance.

1022.10.10 (7 CFR 273.18) Agency Error Claim

REV:07/2002

Instances of agency error which may result in a claim include, but are not limited to, the following:

* The agency failed to take prompt action on a change reported by the household;

* The agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment;

* The agency continued to provide a household SNAP allotments after its certification period had expired without benefit of a reapplication determination; or

* The agency failed to provide a household a reduced level of SNAP benefits because its cash assistance amount changed.

The actual steps for calculating an agency error claim are:

* Determine the correct amount of benefits for each month that a household received an overpayment.

* 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.

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.