



Rhode Island Executive Office of Health and Human Services
Appeals Office, 57 Howard Ave., LP Building, 2nd Floor, Cranston, RI 02920
Phone: 401-462-6827 / Fax: 401-462-0458

Date: June 9, 2015

Date of Hearing: 6/8/15
Docket # 15-995

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 Rules and Regulations(s) were the matters before the hearing:

THE DHS POLICY MANUAL: SNAP

SECTION: 1022 (7 CFR 273.18) Claims Against Households

SECTION: 1022.10.10 (7 CFR 273.18) Agency Error Claim

The facts of your case, the Agency Rules and Regulations, 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 and Christine Messier.

Present at the hearing were: You and Agency representative: Janet Surprenant.

ISSUE: Should the appellant have to repay benefits that she was not eligible for in February 2014 through September 2014?

DHS RULES AND REGULATIONS: Please see the attached APPENDIX for pertinent excerpts from the Department of Human Services Rules and Regulations.

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

DISCUSSION OF THE EVIDENCE:

The Agency representative testified:

- The appellant sent in an interim report in which she reported wages.
- The Agency did not act upon the information.
- The appellant was overpaid in SNAP benefits from February 2015 through September 2015.
- The Agency sent a repayment notice to the appellant on April 22, 2015.
- The appellant filed for an appeal.
- This over-payment was not the appellant's fault.
- The Supervisor of CCRU did reduce the payment by 10% due to hardship.

The Appellant testified:

- She did send in the pay-stubs.
- She did send in her report at the correct time.
- The Supervisor did reduce the payment by 10%.
- She should not have to pay for something that is not her fault.
- The Agency should be responsible for their mistakes.

FINDINGS OF FACT:

- The appellant was working.
- The Agency did receive an interim report.
- The Agency did not act upon the report.
- The appellant did receive SNAP benefits for which she was not eligible.
- The Agency did send a demand for over issuance.
- The appellant did file a timely appeal received by the Agency in March 2015.
- The hearing was held on June 8, 2015.

CONCLUSION:

The issue to be decided is whether the appellant has to repay a \$ 1512.00 over payment which occurred February 2014 through September 2014.

A review of Agency Rules and Regulations reveals that an overpayment is defined as a cash benefit issued to or for an assistance unit for a payment month in an amount exceeding the amount for which that unit was eligible.

An overpayment may result from either an agency or a client error.

To determine the net overpayment amount, the gross overpayment must be reduced by the amount of any child support collected and retained by the Department of Human Services, Office of Child Support Services over and above the payment the recipient should have received.

In this case the appellant testified that her that she reported her wages on her interim report and that the Agency failed to act upon them.

The Agency representative testified that they did receive the interim report with paystubs; however it was not acted upon in a timely manner.

The appellant argued that she should not have to pay the money back if it was not her fault.

Further review of Agency Rules and Regulations reveals that DHS must initiate collection action against the household on all client 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 thirty-five dollars (\$35), and the claim cannot be recovered by reducing the household's allotment or the agency has documentation which shows that the household cannot be located.

In this case it should be noted that the appellant requested and was given a reduction in repayment amount due to hardship. The chief of the collections, claims and recovery unit reduced the amount of the over issuance by 10%.

The appellant still maintains that it is a very unfair Policy to expect a person to pay back and over issuance that occurred because the agency made an error.

Federal Rules and Regulations state that a recipient claim is an amount owed because of Benefits that are overpaid. This claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these regulations.

The State agency must develop a plan for establishing and collecting claims that provides orderly claims processing and results in claims collections similar to recent national rates of collection. The following are responsible for paying a claim; each person who was an adult member of the household.

After careful review of Agency Policy and the evidence and testimony given, this Appeals Officer finds that the appellant was over paid in February 2014 through September 2014 by \$1512.00 minus the 10% reduction; therefore her request for relief is denied.

Geralyn B. Stanford
Appeals Office

APPENDIX

1022.03 (7 CFR 273.18) CLAIM DEFINED

A recipient claim is an amount owed because of:

1. Benefits that are overpaid, or
2. Benefits that are trafficked. Trafficking is defined as buying or selling of benefit instruments such as EBT cards for cash or consideration other than eligible food.

This claim is a Federal debt subject to rules governing Federal debts. DHS must establish and collect the claim according to the following rules and those located in policy Section 1024.

1022.05 (7 CFR 273.18) ESTABLISHING CLAIMS AGAINST HOUSEHOLDS
REV:07/2002

A claim referral is the identification of a potential overpayment that needs to be investigated and established as a claim by the CCR/Fraud Unit.

There are three (3) types of claims:

Intentional Program Violation

Any claim for an overpayment or trafficking resulting from an individual committing an intentional program violation (IPV) as defined in Section 1034.15 when:

- b. An administrative disqualification hearing official or a court of appropriate jurisdiction has determined that a household member committed an IPV; or
- c. An individual is disqualified as a result of signing a waiver of her/his disqualification hearing as discussed in Section 1034.30;
or
- d. An individual is disqualified as a result of signing a disqualification consent agreement in a case referred for prosecution as discussed in Section 1034.40.

Prior to the determination of an intentional program violation or the signing of either a waiver of right to a disqualification hearing or a disqualification consent agreement in cases of deferred adjudication, the claim against the household is handled as an inadvertent household error claim.

Inadvertent Household Error

An inadvertent household error is any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household. This includes instances when the household unintentionally received benefits, or more benefits than it was entitled to receive, pending a fair hearing decision.

Agency Error

An agency error is any claim that for an overpayment caused by the agency's action or failure to take action.

The following individuals are responsible for paying a claim:

3. Each person who was an adult member of the household when the overpayment or trafficking occurred;
4. A sponsor of an alien household member is the sponsor was at fault; or
5. A person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.

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

A claim is established against a household for an overissuance 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 overissuance that have occurred within twelve (12) months of overissuance prior to the date the agency becomes aware of the overissuance.

1022.10.05 (7 CFR 273.18) Inadvertent Household Error Claim

REV:07/2002

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

- iv. The household unintentionally failed to provide the agency with correct or complete information;
- v. The household unintentionally failed to report to the agency changes in its household circumstances; or
- vi. The household unintentionally received benefits, or more benefits than it was entitled to receive, pending a fair hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits.

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.

1022.10.15 (7 CFR 273.18) When a Claim Cannot be Established

REV:07/2002

Neither an inadvertent household error claim nor an agency error claim is established if the overissuance occurred as a direct result of:

- * The agency's failure to ensure that a household fulfilled the procedural requirements of signing the application form or completing a current work registration form.

1022.10.20 (7 CFR 273.18) Determining Initial Month of Overissuance

REV:03/2006

1022.10.20 Determining Initial Month of Overissuance REV: 02/2006

In all cases involving inadvertent household error or agency error claims, the first month of overissuance is the month the change would have been effective had it been reported in a timely manner with allowance for the advance notice period. In no instance, however, is the first month of overissuance any later than two (2) months from the month in which the change in household circumstances occurred. The agency representative determines the initial month of overissuance as follows:

- * Households Subject to Change Reporting Requirements Failure to

Report Change Within Ten (10) Days

If, due to a misunderstanding on the part of the household, the household failed to report a change in its circumstances within ten (10) days of the date the change became known to the household, the first month affected by the household's failure to report is the first month the change would have been effective had it been reported in a timely manner.

Example:

The household received UCB on July 25th but, due to a misunderstanding, did not report to the agency until August 18th. The first month of overissuance would be September (which is the month the change would have been effective).

Change Reported Timely

When a household reports the change on time, but the agency representative does not act on the change in a timely manner, the first claim month is still the first month the change would have been effective.

Example:

A household reported on May 6th that a change in medical

expenses occurred on May 5th. The change should have been made for June 1st but was not made until July 1st. The first month of overissuance was June.

If the Notice of Action was required but not sent, the agency representative assumes, for the purpose of calculating the claim, that the maximum advance notice period would have expired without the household requesting a hearing.

Example:

A household reported the change on May 25th. After allowing the ten (10) day advance notice time, the change would have been made for July 1st. July, therefore, is the first month of overissuance if the change was not made.

Benefits Issued Pending Hearing Decision

If a household requests the continuation of benefits pending a fair hearing decision, and receives an overissuance because its position is not sustained by the hearing decision, the first month of overissuance is the month that the change would have been effective had the household not asked for the continuation of benefits.

Example:

A household appeals an action intended for August 1st and subsequently receives a fair hearing decision sustaining the agency. August is the first month of overissuance.

* Households Subject to Simplified Reporting Requirements

If the household is a simplified reporting household and the change which resulted in an overissuance of SNAP benefits occurred during the certification period and was not required to be reported, according to the simplified reporting requirements as outlined in section 1018.05.05.03, the overissuance shall be calculated from the date of recertification, which is the time the household was required to report the change.

Example:

A simplified reporting household is granted SNAP benefits in August. A household member begins working in October, within the household's certification period. The additional household income does not exceed 130% of the federal poverty level. If this information is reported at the next recertification in January, there is no overissuance of SNAP benefits as the household was not required to report the income change, according to the guidelines for a simplified reporting household. If the household does not report this income change at the recertification, January is the first month of overissuance.

REV:07/2002

After excluding those months which are more than twelve (12) months prior to the date the overissuance 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 overissuance was in effect.

The actual steps for calculating a claim are:

- C. Determine the correct amount of benefits for each month that a household received an overpayment.
- D. 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.
- E. Subtract the correct amount of benefits from the benefits actually received. The result is the amount of the overpayment.
- F. 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 overissuance 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.

§273.18 Claims against households.

(a) *General.* (1) A recipient claim is an amount owed because of:

(i) Benefits that are overpaid or

(ii) Benefits that are trafficked. Trafficking is defined in 7 CFR 271.2.

(2) This claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these regulations.

(3) As a State agency, you must develop a plan for establishing and collecting claims that provides orderly claims processing and results in claims collections similar to recent national rates of collection. If you do not meet these standards, you must take corrective action to correct any deficiencies in the plan.

(4) The following are responsible for paying a claim:

(i) Each person who was an adult member of the household when the overpayment or trafficking occurred;

(ii) A person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking. (b) *Types of claims.* There are three types of claims:

An . . .	is . . .
(1) Intentional Program violation (IPV) claim	any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in §273.16.
(2) Inadvertent household error (IHE) claim	any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.
(3) Agency error (AE) claim	any claim for an overpayment caused by an action or failure to take action by the State agency.

(c) *Calculating the claim amount—*(1) *Claims not related to trafficking.*

(i) As a State agency, you		
must calculate a claim . . .	and . . .	and . . .
back to at least twelve months prior to when you become aware of the overpayment	for an IPV claim, the claim must be calculated back to the month the act of IPV first occurred	for all claims, don't include any amounts that occurred more than six years before you became aware of the overpayment.
(ii) The actual steps for calculating a claim are		
you . . .	unless . . .	then . . .
(A) determine the correct amount of benefits for each month that a household received an overpayment		
(B) 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	the claim is an AE claim	apply the earned income deduction.
(C) subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment	this answer is zero or negative	dispose of the claim referral.

(D) reduce the overpayment amount by any EBT benefits expunged from the household's EBT benefit account in accordance with your own procedures. The difference is the amount of the claim	you are not aware of any expunged benefits	the amount of the overpayment calculated in paragraph (c)(1)(ii)(C) of this section is the amount of the claim.
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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.