



APR 30 2015

**United States  
Department of  
Agriculture**

Food and  
Nutrition  
Service

Northeast Region

10 Causeway St.  
Room 501  
Boston, MA 02222

Patricia Baker  
Policy Analyst  
Massachusetts Law Reform Institute  
99 Chauncy Street #500  
Boston, MA 02111

Dear Ms. Baker:

Thank you for your April 7, 2015 letter regarding your experiences with the Department of Transitional Assistance's (DTA) treatment of recouped unearned income for Supplemental Nutrition Assistance Program (SNAP) benefits. Please be assured that the Food and Nutrition Service (FNS) Northeast Regional Office (NERO) is actively working with DTA on policy and procedures regarding SNAP case processing. We are concerned about the challenges described in your letter and we appreciate you bringing these examples to our attention.

We agree that recouped non-means tested unearned income, for example Retirement, Survivor's and Disability Insurance (RSDI) benefits, should not be counted as income when determining SNAP benefits amounts. Overpayments in this case should be disregarded and only the "net" amount should be counted. According to SNAP regulations at § 273.9(b)(5), income shall not include: *moneys withheld from an assistance payment, earned income, or other income source, or moneys received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided that the overpayment was not excludable under paragraph (c) of this section. However, moneys withheld from assistance from another program, as specified in § 273.11(k), shall be included as income.*

As noted in your letter, DTA issued guidance to staff about this topic in a November 2014 Transitions newsletter. However, NERO will continue to actively follow up with DTA on this and other policy concerns to ensure that regulations are adhered to so eligible households receive the critical nutrition assistance benefits to which they are entitled.

Thank you again for your letter and your work on behalf of SNAP clients in Massachusetts. If you have any questions regarding this letter, please do not hesitate to contact Bonnie Brathwaite, SNAP Director of the Northeast Region at 617-565-6397.

Sincerely,

Kurt Messner  
Acting Regional Administrator  
Northeast Region



April 7, 2015

Acting Commissioner Thomas Massimo  
SNAP Director Phuoc Cao  
Department of Transitional Assistance  
600 Washington Street, Boston MA 02111

Acting Administrator Kurt Messner  
SNAP Director Bonnie Braithwaite  
USDA Food and Nutrition Service  
10 Causeway, Boston MA 02222

RE: Improper DTA Treatment of Recouped Income

Dear DTA and FNS NERO colleagues:

We are writing to raise ongoing concerns about DTA's treatment of recouped income in the SNAP benefits calculation. Based on a SNAP case that surfaced last week through The Food Bank of Western Massachusetts (FBWM) and multiple conversations both the FBWM and MLRI had with DTA, it appears that both the BEACON programming, DTA protocol and training are woefully lacking on recouped income cases. As DTA knows, in 2014, the Veterans Legal Services of Harvard Law School and MLRI identified two veterans whose gross VA pension was being improperly counted in its entirety when only the net VA pension should have been. We are not convinced that DTA fully identified all veterans who are or may have been harmed by the state's improper counting of recouped VA pension in part because the incomplete information DTA receives from the VA under the PARIS match system.

Today we write to you about a comparable issue with respect to DTA treatment of recouped RSDI income. On April 3<sup>rd</sup>, MLRI intervened in a SNAP case from the FBWM involving a homeless veteran originally from Springfield whose SNAP benefits were improperly calculated using recouped RSDI benefits. Based on our review of the facts in this case and multiple conversations with DTA staff to revolve it, we have the following concerns:

- DTA workers routinely input into BEACON the gross RSDI amount reported in BENDEX, even though BENDEX may display a lower net RSDI amount. There is no hard edit in BEACON to prevent a worker from using the gross amount and requiring the worker to confirm the reason for the RSDI "discrepancy" or lower RSDI net amount. (We understand the \$104.90 Medicare deduction, but this is beyond that flat RSDI deduction applicable to all cases not on MassHealth).
- DTA staff indicated to MLRI that they are not required to contact SSA for information on the reason why a lower RSDI net amount is being paid or if there is a recoupment,
- DTA staff either have been trained or simply assume that the SNAP elder or disabled client has the burden of : a) figuring out what income DTA is using in the calculation of SNAP, b) contacting DTA to let DTA know about the lower RSDI net amount, and c) provide DTA with verification to that effect.
- DTA staff do not appear to be sufficiently familiar with the DTA guidance of November 2014 on treatment of recouped income.

The specific case in which we found these problems involve a disabled veteran whose initials are S.W. and Agency ID is 5142359. An authorization signed by the client allowing the FBWM and MLRI to discuss his case is on file as is all the SSA documents mentioned below.

1. S.W. filed SNAP recertification form on Feb 11, 2015. The FBWM staff called DTA on 2/25/15 to inquire about the status of the SNAP recertification. They were told by the first available worker (FAW) that his case was "still pending" because his RSDI did not match the information DTA has from SSA. The FAW told the FBWM that the client "must verify the amount of his RSDI benefits." The FBWM provided DTA with a statement from SSA verifying his gross RSDI of \$1,067.90 per month and net RSDI of \$875/month (see client's January 2015 "New Benefit Amount" faxed by FBWM to DTA Document Center).
2. In a follow up call to the DTA Assistance Line, Sylvia Ramos of the FBWM was told that DTA could not use the SSA "New Benefit Amount" letter as proof of his net RSDI. The client went back to the SSA District Office and secured an SSA Springfield Field Office letter dated 3-24-15 that SSA is withholding \$88/mo RSDI for an overpayment. The FBWM then faxed this statement to DTA.
3. In a conversation the FBWM had with the Chelsea TAO on 3/27/15, the FAW who responded to the call informed the FBWM that – notwithstanding SSA's verification of the RSDI recoupment – DTA cannot disregard the \$88/mo recoupment unless it was "court ordered child support". The veteran's SNAP case was approved for the minimum SNAP benefit based on his gross RSDI benefit less the medical deduction.
4. On 3/31/15, at the request of the FBWM and their client, MLRI (Pat Baker) spoke with a FAW out of the Southbridge TAO. The FAW described information from the client's BEACON screens. She confirmed that BEACON was still using the higher RSDI amount. The FAW said that DTA workers routinely use the gross RSDI amount reported by SSA through BENDEX, less the \$104.90 Medicare (applied to the medical deduction). The FAW said that DTA does not use the "net" RSDI amount and DTA does not contact SSA to explore the reason for the discrepancy. She offered to do an updated BEACON query to BENDEX in case the RSDI has changed (e.g. a COLA) but suspected it would still have the same RSDI amount they were using. When I explained to the FAW that the client had an RSDI recoupment of \$88/mo, and referenced the DTA Hotline guidance on recouped income, issued in the November 2014 Transitions. She said she was not familiar with the guidance, looked at it and then suggested I speak with her supervisor or the Southbridge AD. Please note, at all times the FAW was very professional and competent, but clearly explained she had no authority to change the amount of RSDI income being used and suggested MLRI go up the chain of command.
5. MLRI spoke twice with the Southbridge Assistant Director on April 1<sup>st</sup> and 2<sup>nd</sup>. She kindly resolved the case after researching the November 2014 guidance MLRI referred her to and checking with DTA Central. In the second call, she explained that her understanding was that that DTA typically uses gross RSDI amount listed in BENDEX unless a SNAP client contacts DTA, and verifies the reason for the lower amount (e.g. child support or overpayment recoupment). She said DTA does not contact SSA to inquire about the reason for the discrepant RSDI amount and goes with the higher amount unless proven otherwise.

The federal SNAP regulations are clear that state agencies shall not count recouped income from non-means tested programs in calculating SNAP benefits and only certain means-tested benefits (e.g. SSI, TANF, GA and our state Chapter 115 benefits). Further, the federal regulations are clear that DTA has the burden of contacting the agency in question about discrepant information, in this case the SSA if there are any questions about the net amount of RSDI. 7 CFR 273.11(k),(j)(1), *"The State agency, rather than the household, shall be responsible for obtaining information about sanctions from other programs and changes in those sanctions."* DTA should not

burden SNAP applicants or recipients who are – by definition of their receipt of RSDI and VA Pensions either elderly or disabled or both – with securing documentation to verify that a portion of their RSDI or VA pension is being recouped. If DTA is aware of the discrepant income via BENDEX or through a difference in the unearned income reported by the household (e.g. a lower VA pension or lower RSDI payment), DTA should affirmatively investigate the reasons for lower unearned income. Based on conversations MLRI has had with DTA staff, we are also concerned that similar confusion with regard to recouped income may also be happening in the Unemployment Insurance (UI) program. Two DTA workers reported to MLRI that they recently corrected SNAP cases where the earlier FAW failed to properly handle recouped UI, which recoupment is indicated in BEACON through DUA's "Mass Overpayment" field but is not automatically flagged by BEACON thus permitting the FAW to input the incorrect amount. Both workers requested we not identify them.

MLRI and the FBWM request the Department and FNS NERO again investigate DTA's handling of SNAP calculations involving recouped unearned income. Specifically, we believe this warrants systems programming, review of all SNAP cases where RSDI income is discrepant and review as well of discrepancies in both VA Pension and Unemployment Insurance cases.

Sincerely,



Patricia Baker, Policy Analyst  
Mass Law Reform Institute



Andrew Morehouse, Executive Director  
Food Bank of Western Massachusetts