



State of West -----
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General

Board of Review
P.O. Box 1736
Romney, WV 26757

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph. D
Cabinet Secretary

February 17, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held February 15, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your eligibility for the Supplemental Nutrition Assistance Program or SNAP.

In arriving at a decision, the State Hearing 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 SNAP is based on current policy and regulations. These regulations provide that eligibility for SNAP is determined and benefits are issued on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. Policy states that past income is calculated when the income source is expected to continue into the SNAP certification period. The total amount of income is derived from income received by all persons in the Income Group in the thirty calendar days prior to the redetermination. Additionally, when the client applies on one day, but the interview is conducted later, all income received between the date of application and the date of the interview is considered along with the income from the 30 days prior to the date of application from the income source. (West Virginia Income Maintenance Manual Chapter 10.4)

The information which was submitted at your hearing revealed that you failed to submit the required employment verifications in order to determine your continued eligibility for SNAP assistance; therefore, the Department was correct in its decision to terminate your SNAP assistance.

It is the decision of the State Hearing Officer to Uphold the action of the Department to terminate your eligibility for SNAP assistance.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Ann Hubbard, ESS

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

-----,

Claimant,

v.

Action Number: 10-BOR-2455

**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 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 February 15, 2011 on a timely appeal, filed December 20, 2010.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition Assistance Program (SNAP) 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 benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

-----, Claimant
Ann Hubbard, Economic Service Supervisor (ESS)

Presiding at the hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its decision to terminate the Claimant's eligibility for SNAP assistance by failing to provide requested verification of employment earnings.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 4.1 and 10.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Telephone Interview Recertification Form
- D-3 Verification Checklist dated November 8, 2010
- D-4 Written Statement from -----, [REDACTED] General Manager dated November 13, 2010 and income verifications for October 14, 2010, October 21, 2010, October 28, 2010, November 4, 2010, and November 10, 2010.
- D-5 Written Statement from -----, [REDACTED] General Manager dated December 3, 2010.
- D-6 Computer printout of income information
- D-7 Notice of Decision dated December 9, 2010
- D-8 West Virginia Income Maintenance Manual Chapter 10.4
- D-9 West Virginia Income Maintenance Manual Chapter 4.1

VII. FINDINGS OF FACT:

- 1) On November 8, 2010, the Department conducted a telephonic recertification interview with the Claimant to determine her continued eligibility for the Supplemental Nutrition Assistance Program, hereinafter SNAP. This recertification interview was initiated after the Claimant completed Exhibit D-2, Telephone Interview Appointment Recertification Form and submitted the form to the Department on October 29, 2010, the Claimant's application date.
- 2) Ann Hubbard, Economic Service Supervisor testified that during the recertification interview, the Claimant reported employment with [REDACTED] and a weekly pay date of Thursday. Ms. Hubbard indicated that past income was used to determine the Claimant's total income to be attributed to her SNAP assistance. Ms. Hubbard stated that the Economic Service Worker, hereinafter ESW, completing the Claimant's recertification interview requested income verifications from the Claimant for thirty days prior to the Claimant's application date of October 29, 2010. Additionally, the ESW requested income verifications that were received in the timeframe from the application date to the date of the recertification interview of November 8, 2010. On November 8, 2010, the ESW issued the Claimant Exhibit D-3, Verification Checklist which documents in pertinent part:

This is to inform you that the information listed below is needed to establish your eligibility for SNAP. If this information is not made available to this office by 11/18/2010 your eligibility for benefits and/or deductions cannot be established or continued.

Individual Information needed:

Employment Income-Proof of gross earned income, such as paystubs/employer statement. 9/30-10-7-10-14-10/21-10/28-11/4 [sic]

- 3) On November 17, 2010, the Claimant submitted Exhibit D-4, Written Statement from -----, [REDACTED] General Manager along with paystubs for the dates of October 14, 2010, October 21, 2010, October 28, 2010, November 4, 2010, and November 10, 2010. The written statement portion of the exhibit documents in pertinent part:

Listed below is the employment income you requested for ----- . Be mindful that our pay periods begin on Saturday's [sic] and end on Friday's [sic] which will be off, a day, from your request. I believe the information will be sufficient.

Gross earned income by week:

10-01-2010-\$247.32
10-07-2010-\$223.20
10-15-2010-\$311.22
10-22-2010-\$275.18
10-29-2010-\$439.12
11-05-2010-\$244.62

The paystubs submitted to the Department document the Claimant's gross pay as:

10-14-2010-\$223.20 (week ending date 10/08/2010)
10-21-2010-\$311.22 (week ending date 10/15/2010)
10-28-2010-\$275.18 (week ending date 10/22/2010)
11-04-2010-\$439.12 (week ending date 10/29/2010)
11-10-2010-\$244.62 (week ending date 11/05/2010)

Ms. Hubbard noted that pay dates on the submitted paystub verifications was received six days after the week ending date on the verifications. Upon review of this exhibit, the income information listed on the written statement is incorrect due to incorrect dates that do not coincide with the submitted paystub verifications.

- 4) Ms. Hubbard indicated that an ESW contacted the Claimant's employer to ascertain the missing pay date verifications, but was unsuccessful in obtaining the required information. Ms. Hubbard purported that the ESW contacted the Claimant and informed her of the missing documentation. On December 3, 2010, the Claimant submitted Exhibit D-5, Written Statement from -----, [REDACTED] General Manager, which documents in pertinent part:

The intent of this letter is to confirm hours and gross wages for the period of 9-25-10 through 10-1-2010 for -----.

Hours worked for this period were 27.48
Gross wages for this period were \$247.32

Ms. Hubbard presented Exhibit D-6, Computer printout of income information to demonstrate that the income information supplied from the Claimant's employer was utilized to verify income for the October 7, 2010 pay date and the remaining date of September 30, 2010 remained unverified. Ms. Hubbard explained that the ESW made an additional attempt to contact the Claimant's employer to obtain income information for September 30, 2010, but was unsuccessful in obtaining the required information.

- 5) On December 9, 2010, the Department issued Exhibit D-7, Notice of Decision to the Claimant. This exhibit documents in pertinent part:

Action: Your 11/08/10 application for SNAP has been denied.

Reason: You did not turn in all requested information. The following information was not verified: Proof of gross earned income, such as paystubs/employer statement.

- 6) The Claimant indicated that her employer, [REDACTED] transitioned from paper paychecks to electronic direct deposit during the timeframe that she was required to provide employment verification. The Claimant referred to Exhibit D-5 and indicated that the cut-off date in such pay period was September 30, 2010 and the income was received on October 1, 2010 and that the submitted income was issued during the timeframe of September 29, 2010 through November 8, 2010. The Claimant noted that the paystub verifications (Exhibit D-4) document "Your final FY10 averaged hours worked is 30.32." The Claimant believed that the information noted on the verification, along with the written statement from her General Manager, was sufficient information to verify her income for September 30, 2010.

- 7) West Virginia Income Maintenance Manual Chapter 10.4 (Exhibit D-8) documents in pertinent part:

Eligibility is determined and benefits are issued on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period.

There are 2 methods for reasonably anticipating the income the client expects to receive. One method uses past income and the other method uses future income. Both methods may be used for the same AG for the same certification period because the method used varies with the circumstances of each source of income. The situations which prompt usage of one or the other method are listed below.

Use past income only when both of the following conditions exist for a source of income:

-Income from the source is expected to continue into the certification period;
and

-The amount of income from the same source is expected to be more or less the same.

Note: For these purposes, the same source of earned income means income from the same employer, not just the continued receipt of earned income.

Use future income when either of the following conditions exists for a source of income.

-Income from a new source is expected to be received in the certification period;
or

-The rate of pay or the number of hours worked for an old source is expected to change during the certification period.

Note: For these purposes, a new source of earned income means income from a different employer. Income that normally fluctuates does not require use of future income. Future income is used for old source only when the hourly, weekly, monthly, etc. rate of pay changes or the number of hours worked during a pay period increases or decreases permanently.

2. Consideration of Past Income

It is necessary to consider information about the client's income sources before the Worker can decide which income to use.

The Worker must follow the steps below for each old income source.

Step 1: Determine the amount of income received by all persons in the Income Group in the 30 calendar days prior to the application/redetermination date.

The appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of application/redetermination. The income from this 30 day period is the minimum amount of income which must be considered. When, in the Worker's judgment, future income may be more reasonably anticipated by considering the income from a longer period of time, the Worker considers income for the time period he determines to be reasonable. Whether the Worker considers income from the prior 30 days, or from a longer period of time, all of the income received from that source during that time period must be considered. All pay periods during the appropriate time period must be considered and must be consecutive.

When the client applies or is redetermined on the day income has or will be received, income received on that date is also considered along with the income from at least the prior 30 days from the same source.

When the client applies on one day, but the application/redetermination interview is conducted later, all income received between the date of application and the date of the interview is considered along with the income from at least the 30 days prior to the date of application from the same source.

Step 2: Determine if the income from the previous 30 days is reasonably expected to continue into the new certification period.

If it is not expected to continue, the income from this source is no longer considered for use in the new certification period.

If it is expected to continue, determine if the amount is reasonably expected to be more or less the same. If so, the income source is used for the new certification period and treated according to item 4 below. If it is not expected to continue at more or less the same amount, the income source is used for the new certification period and treated according to item 3 below.

Step 3: Record the results of Step 2, including the amount of income, why the source is or is not being considered for the new certification period, the client's statement about continuation of the income from this source, the time period used, and, if more than the previous 30 days, the reason additional income was considered.

Once the Worker has determined all of the old sources of income to consider and the time period for which they are considered, he must then determine if any source should be considered for future income.

- 8) West Virginia Income Maintenance Manual chapter 4.1 (Exhibit D-9) documents in pertinent part:

Verification of client's statement is required when:

- Policy requires routine verification of specific information
- The information provided by the client is questionable
- Past experience with the client reveals a pattern of providing incorrect information or withholding information. A case recording must substantiate the reason the Worker questions the client's statement
- The client does not know the required information

A. Client Responsibility

The primary responsibility for providing verification rests with the client. Failure of the client to provide necessary information or to sign authorizations for release of information, results in denial of the application or closure of the active case, provided the client has access to such information and is physically and mentally able to provide it.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that past income is used to determine an individual's financial eligibility for SNAP assistance when the income from the source is expected to continue into the certification period and the amount of income from the same source is expected to be more or less the same. Past income is calculated towards the individual's financial eligibility by

determining the amount of income received by all persons in the Income Group in the 30 calendar days prior to the application/redetermination date, when such income is reasonably expected to continue into the new certification period. Furthermore, policy stipulates that income from the 30 day period is the minimum amount of income which must be considered, and the appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of the individual's application/redetermination. Additionally, policy stipulates that when the client applies on one day, but the application/redetermination interview is conducted later, all income received between the date of application and the date of the interview is considered along with the income from the 30 days prior to the date of application.

- 2) A review of the evidence reveals that the Claimant reported weekly employment income, which was reasonably expected to continue, at the redetermination on November 8, 2010. Based on this information, the Department required six verifications of the Claimant's pay for the time period of September 29, 2010 through November 8, 2010. This time period included the thirty days prior to the Claimant's application date and the time period from the application date to the redetermination interview date of November 8, 2010. The Claimant submitted verification in the form of paystubs and written statements which verified her income from October 7, 2010 through November 4, 2010. The thirty day period of consideration required the income from September 30, 2010 to be verified in the calculation of the Claimant's financial eligibility and the information submitted by the Claimant does not relate to income received on September 30, 2010. The Claimant failed to verify total income for the required dates of thirty days prior to the application and the timeframe to the interview date. Therefore, the Department was correct in its decision to terminate the Claimant's SNAP assistance for failing to provide requested income verifications.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to terminate the Claimant's eligibility for SNAP assistance for failing to provide requested income information.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ day of February 2011.

Eric L. Phillips
State Hearing Officer