



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
Post Office Box 2590  
Fairmont, WV 26555-2590

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

October 26, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 24, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for benefits through the School Clothing Allowance Program and to terminate your Food Stamp benefits based on excessive assets.

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 and benefit levels for the Food Stamp and School Clothing Allowance Program are based on current regulations. Some of the regulations state that the maximum allowable asset limit for the School Clothing Allowance Program is \$2000, regardless of the number of individuals in the Assistance Group. The Asset limit for the Food Stamp Program is \$2000 (or \$3000 if at least one AG member is age 60 or over, or disabled). (West Virginia Income Maintenance Manual, Chapter 11.3, Appendix C of Chapter 15, and 7 CFR 273.8- Code of Federal Regulations)

The information submitted at your hearing reveals that your assets exceed the maximum allowable asset limit for participation in the Food Stamp and WV School Clothing Allowance Programs.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your application for benefits through the WV School Clothing Allowance Program and to **uphold** the proposal of the Department in terminating your Food Stamp benefits effective 7/31/06.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Lisa Tanner, ESW, DHHR

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

\_\_\_\_\_,  
**Claimant,**

v.

**Action Number:     06-BOR-2527 (FSP)  
                              06-BOR-2528 (SCA)**

**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 concluded on October 26, 2006 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 October 24, 2006 on a timely appeal filed July 11, 2005.

It should be noted that Food Stamp benefits have continued pending the hearing decision.

**II.    PROGRAM PURPOSE:**

The Food Stamp and Medicaid Program is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of the Food Stamp Program 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 EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

The WV WORKS School Clothing Allowance (SCA) Program is designed to provide clothing assistance for school age children. These children must be foster children or recipients of WV WORKS during the month of July. The West Virginia School Clothing Allowance (WVSCA) provides clothing assistance for school age children in families who do not wish to apply or are not financially eligible for WV WORKS but whose income is equal to or less than 100% of the Federal Poverty Level.

**III. PARTICIPANTS:**

\_\_\_\_\_, Claimant  
Lisa Tanner, ESW, DHHR

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

**IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether the Department was correct in its proposal to terminate the Claimant’s Food Stamp benefits and to deny her application for School Clothing Allowance based on excessive assets.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual, Chapter 9.1, 11.1, 11.3, 11.6 & Appendix C of Chapter 15.  
7 CFR 273.8-Code of Federal Regulations

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department’s Exhibits:**

- Exhibit-1 Application for WV School Clothing Allowance (completed on 7/1/06)
- Exhibit-2 Certificate of Deposit from People Bank
- Exhibit-3 Notice of Decision dated 7/19/06 (School Clothing Allowance denial)
- Exhibit-3a Notice of Decision dated 7/19/06 (Food Stamp closure letter)
- Exhibit-4 WVIMM, Chapter 15, Appendix C, Section J (Assets)
- Exhibit-5 WVIMM, Chapter 11.3 – Maximum Allowable Assets
- Exhibit-6 Case Comments from the RAPIDS computer system dated 7/18/06.
- Exhibit-6a Case Comments from the RAPIDS computer system dated 10/23/06
- Exhibit-7 WVIMM, Chapter 11.1 (Definitions)
- Exhibit-8 WVIMM, Chapter 11.6 (Determining Countable Assets)
- Exhibit-9 WVIMM, Chapter 9.1, Food Stamp Eligibility Determination Groups.

**VII. FINDINGS OF FACT:**

- 1) The Claimant completed an application for benefits through the West Virginia School Clothing Allowance Program, hereinafter WVSCA, on July 1, 2006 (Exhibit-1). Under section IV. (ASSETS) of Exhibit-1, the Claimant indicated that \_\_\_\_\_ and \_\_\_\_\_ (the Claimant’s children) owned a Certificate of Deposit (CD), however, the value of the CD was not reported.
- 2) The Department verified the value of the CD to be \$2900 (Exhibit-2 & 2a) and that the Claimant had access to the CD (Exhibit-6 & 6a).

- 3) On or about July 19, 2006, the Claimant was notified that her 7/1/06 application for benefits through the WVSCA Program was denied (Exhibit -3), and that her Food Stamp benefits would stop after July 2006 (Exhibit 3a) due to excessive assets.
- 4) Evidence submitted at the hearing, including testimony received from the Claimant, reveals that the \$2900 CD was accessible to the Claimant. The Claimant testified that she did not want to withdraw the money from the CD and suffer the financial penalty for early withdrawal. The Claimant testified that she planned to use the money in the CD to repair the roof of her home.
- 5) The West Virginia Income Maintenance Manual, Chapter 9.1, Food Stamp Eligibility Determination Groups - The Assistance Group (AG) Who Must Be Included:  
The Food Stamp AG must include all eligible individuals who both live and purchase and prepare their meals together. This includes children (natural or adopted) under the age of 22 years, living with a parent.
- 6) Policy found in the West Virginia Income Maintenance Manual, Chapter 11.3 - states that the maximum allowable asset limit for the Food Stamp Program is \$2000. The asset limit is increased to \$3000 when at least one AG member is age 60 or older or disabled. Whereas none of the Claimant's AG members are age 60 or older, or disabled, the asset limit for the Food Stamp Program in the Claimant's case is \$2000.
- 7) The West Virginia Income Maintenance Manual, Chapter 11.3 provides that the maximum asset limit for the WV WORKS / WVSCA Program is \$2000 (regardless of the number in the AG).
- 8) West Virginia Income Maintenance Manual, Chapter 15, Appendix C (Assets) states – “The asset limit is \$2000. The WV WORKS asset policy in Chapter 11 applies to WVSCA. If countable assets exceed \$2000, the case is not eligible for WVSCA.”
- 9) The West Virginia Income Maintenance Manual, Chapter 11.1 (Accessibility of Assets) states – “A client may not have access to certain assets. In order to be considered an asset, the asset must be owned by or available to the client. If the client cannot legally dispose of the asset, it is not treated as an asset.”

### **VIII. CONCLUSIONS OF LAW:**

- 1) In order for the Claimant to be eligible to receive benefits through the Food Stamp and WVSCA Programs, assets can not exceed \$2000.
- 2) The Department verified that the Claimant / Claimant's AG owned a Certificate of Deposit valued at \$2900.
- 3) The evidence reveals that the CD was accessible to the Claimant for disposition and was therefore correctly counted as an asset in the WVSCA and Food Stamp Program.

- 4) Whereas the Claimant's assets exceed the maximum allowable asset limit for participation in the WVSCA and Food Stamp Program, the Department was correct in its action to deny the Claimant's 7/1/06 application for WVSCA and to propose termination of her Food Stamp benefits effective 7/31/06.

**IX. DECISION:**

After reviewing the applicable policy and regulations, I am ruling to **uphold** the action of the Department in denying the Claimant's application for benefits through the West Virginia School Clothing Allowance Program and I am **upholding** the Department's proposal to terminate the Claimant's Food Stamp benefits based on excessive assets. Food Stamp benefits should have been stopped effective 7/31/06.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 26<sup>th</sup> Day of October, 2006.**

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**Thomas E. Arnett  
State Hearing Officer**