



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 12, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 4, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your Food Stamps and deny your School Clothing Allowance application for failure to verify income and assets.

In arriving at a decision, the State Hearings 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 the Food Stamp and School Clothing Allowance programs is based on current policy and regulations. Some of these regulations state as follows: For the Food Stamp program, a recipient in a current simplified reporting certification is only required to report changes in income exceeding the allowable limits. For School Clothing Allowance, income and assets must be verified at application as eligibility is determined for the month of July only (West Virginia Income Maintenance Manual § 2.2 B, 4.1 and 15 Appendix C).

The information which was submitted at your hearing revealed that you failed to verify your earned income and countable assets at your School Clothing Allowance application. While you failed to verify income and assets for the School Clothing Allowance application, you were not required to verify your income and assets while in a current certification period unless reporting an increase in income that would exceed the allowable limits for the Food Stamp program.

It is the decision of the State Hearings Officer to **uphold** the decision of the Department to deny your School Clothing Allowance application for failure to verify income and assets and **reverse** the decision of the Department to terminate your Food Stamps.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

Cc: Erika Young, Chairman, Board of Review
Maureen Guthrie, Economic Service Worker

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

_____,
Claimant,

v.

**Action Number: 08-BOR-1899
08-BOR-1900**

**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 September 4, 2008 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 September 4, 2008 on a timely appeal, filed August 8, 2008.

It should be noted here that the claimant's Food Stamp benefits have been continued pending a hearing decision.

II. PROGRAM PURPOSE:

The Programs entitled Food Stamps and School Clothing Allowance 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
_____, Claimant's Friend

Maureen Guthrie, Economic Service Worker

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department's decision to terminate Claimant's Food Stamps and deny her School Clothing Allowance application was correct.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 2.2, 4.1, 4.2, 10.3, 11.4, and 15 Appendix C

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 List of Hearing Evidence
- D-2 Department's Case Summary
- D-3 Form IG-BR-29
- D-4 School Clothing Allowance Denial Notification Letter dated August 4, 2008
- D-5 Food Stamp Closure Notification Letter dated August 4, 2008
- D-6 School Clothing Allowance Application Form received July 7, 2008
- D-7 Verification Request Form dated July 16, 2008
- D-8 Case Comments (CMCC) from Rapids Computer System
- D-9 West Virginia Income Maintenance Manual § 4.1 and 4.2

Claimants' Exhibits:

- C-1 Paystubs from _____ from April 9, 2008 – August 27, 2008

VII. FINDINGS OF FACT:

- 1) Claimant's School Clothing Allowance (SCA) application was processed on July 16, 2008. On the application, Claimant indicated the household's income was Supplemental Security Income (SSI) for herself and son _____. The application also stated her only asset was a checking account (D-6). Claimant's case listed earned income for Claimant and her daughter _____ and life insurance policies (D-8).
- 2) A verification checklist dated July 16, 2008 was issued and read in part (D-7) :

This is to inform you that the information listed below is needed to establish your eligibility and/or deductions for SCA/FS/MED. If this information is not made available to this office by July 26, 2008 your eligibility for benefits and/or deductions cannot be established or continued.

Copy of all paystubs from 6/7 to 7/7/08
Employer verification forms completed by _____ and _____
Current bank statement
Cash in value of life insurance policies

Claimant's Food Stamps were terminated and her SCA application was denied on August 1, 2008 when verification of income and assets had not been received.

- 3) Claimant admitted that she received the verification checklist but testified that she did not send in verification of earned income for herself or _____, a bank statement or value of her life insurance policies because she had just verified this same information several months ago and did not feel like she should have to verify it again. She did submit her paystubs from _____ into evidence (C-1).

Claimant stated that at her last review in March 2008, both her daughters, _____ and _____, had started working and their income had been verified. She also started working in March 2008 and the Department found out about it even though she hadn't reported it. Her TANF case closed after she started working.

Claimant testified that at the time she applied for SCA, she was still working at _____ and _____ at [REDACTED] [REDACTED] stopped working at _____ in May 2008. Claimant stated she still had a checking account and life insurance policies on all three (3) of her children and one on herself. She stated they were term policies with no cash value.

- 4) Evidence submitted by the Department indicated that Claimant's Food Stamps were last reviewed on March 13, 2008. Earned income for _____ at _____ was verified by employer statement and Claimant had reported _____'s loss of employment in May 2008. Case comments indicate that Claimant's checking account and cash values of her life insurance policies were verified also. A new hire report was received by Claimant's caseworker in April 2008 showing Claimant's unreported employment with _____. This income was also verified by an employer statement. The onset of Claimant's earned income closed her TANF check (D-8).

- 5) West Virginia Income Maintenance Manual § 4.1 and 4.1 B state:

It is an eligibility requirement that the client cooperate in obtaining necessary verifications. The client is expected to provide information to which he has access and to sign authorizations needed to obtain other information.

Depending upon the program and the item or requirement for which verification is requested; refusal to cooperate may result in one of the following:

- Denial of the application
- Closure of the AG

- Ineligibility of an individual(s)
- Disallowance of an income deduction or an incentive payment

The Worker must not request verification if the case record or other documentation shows that verification has previously been supplied. It may, however, be requested if the verification provided or shown in the Department's records is incomplete, inaccurate, outdated or inconsistent with recently reported information. Unchanged information is not verified unless it is incomplete, inaccurate, outdated or inconsistent with recently reported information.

6) West Virginia Income Maintenance Manual § 4.2 states:

Verification Requirements

- Bank accounts, CDs and other liquid assets:

All programs and coverage groups subject to an asset test must verify

For applicants: Initiate verification prior to approval, do not delay approval until received

For recipients: Verify when client reports an increase

- Earned income:

All programs and coverage groups subject to an asset test must verify

Verify prior at approval and at redetermination

7) West Virginia Income Maintenance Manual § 10.3 states:

Income Sources

Employment: Counted as earned income for all Food Stamps and WV Works coverage groups including SCA

Exception: Employment is not counted as income for Food Stamps or WV Works coverage groups if it is a child under age 18 who is enrolled in a secondary school or program for GED completion

8) West Virginia Income Maintenance Manual § 11.4 B states:

List of Assets

Bank accounts and CDs: Countable assets for Food Stamps and WV Works coverage groups

Life insurance: The cash surrender value of the policy is a countable asset for WV Works coverage groups. Life insurance policies are exempt for Food Stamps

9) West Virginia Income Maintenance Manual § 15 Appendix C – A(13) states:

Eligibility is determined for the month of July only. When additional information is required, the applicant must return the requested information within the time limit specified on the request for verification.

- 10) West Virginia Income Maintenance Manual § 2.2 B(1)b states (for Food Stamps):

All other Assistance Group's (AG) which do not meet the requirements for a 24-month certification are certified for 6 months. For this group, changes which occur between interview and approval must be reported and acted on prior to approval. Once approved, these AG's must report when the total gross earned and unearned income of the AG and all other individuals who reside with the AG exceeds the AG's gross income limit. This must be reported no later than the 10th calendar day of the month following the month in which the change occurs. In addition, an ABAWD in an ILC must report when his work hours are reduced to less than 20 hours per week, averaged monthly, or less than 80 hours a month.

No other changes are made for these AG's unless the information is reported by an AG member, comes from a source which is verified upon receipt, or from a source which is considered reported.

VIII. CONCLUSIONS OF LAW:

- 1) Per policy, income and assets must be verified at application. Claimant failed to verify her earned income, cash value of life insurance policies and balance of her checking account when she applied for SCA. Claimant admitted that she had received the verification checklist asking for verification of income and assets, but failed to send them in. While _____'s earned income is exempt in determining eligibility for SCA, Claimant's income does count, and was required to be verified at the SCA application.
- 2) Claimant was in a current simplified reporting certification period when she applied for SCA. As dictated by policy, Claimant was only required to report changes in income exceeding the allowable limits for Food Stamps. The Department incorrectly terminated Claimant's Food Stamps when she failed to verify her earned income for the SCA application.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's decision to deny Claimant's School Clothing Allowance application and **reverse** the Department's decision to terminate Claimant's Food Stamps.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day of September, 2008.

**Kristi Logan
State Hearing Officer**