



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

May 22, 2008

[REDACTED]
Dear Ms. [REDACTED]

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 29, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your WV Works benefits due to excessive income and your Food Stamp benefits due to failure to verify income.

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 WV Works and Food Stamp programs is based on current policy and regulations. Some of these regulations state as follows: When the client reasonably expects to receive income from a new source during the new certification period, only the income which can be reasonably expected to be received is counted. Verification of negative statements is not routinely required (West Virginia Income Maintenance Manual § 10.4, 10.24 and 4.1)

The information which was submitted at your hearing revealed that you were not given an opportunity to give the Department an estimate of your anticipated income and expenses from self-employment prior the closure of WV Works and you responded to the Department's request for income verification for Food Stamps in a timely manner and your negative statement should have been accepted.

It is the decision of the State Hearings Officer to **reverse** the decision of the Department to terminate your WV Works and Food Stamp benefits.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

Cc: Erika H. Young, Chairman, Board of Review
Carol Groves, Family Support Supervisor

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

██████████
Claimant,

v.

**Action Number: 08-BOR-1183
08-BOR 1063**

**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 April 29, 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 April 29, 2008 on a timely appeal, filed March 18, 2008.

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


II. PROGRAM PURPOSE:

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

WV Works was created by Senate Bill 140, Article 9 of the West Virginia Code and the Temporary Assistance to needy Families Block Grant, Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The purpose of WV Works is to provide assistance to needy families with children so they can be cared for in their own home, reduce dependency by promoting job preparation, work and marriage. The goals of WV Works are to achieve more efficient and effective use of public assistance funds, reduce dependence on public programs by promoting self-sufficiency and structure the assistance programs to emphasize employment and personal responsibility.

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.

III. PARTICIPANTS:

 Claimant
Claimant's Grandmother
Claimant's Son
Family Support Supervisor

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 WV Works and Food Stamps was correct.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 4.1, 10.4 and 10.24

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-24 Case Comments and Individual Comments from Rapids Computer System from October 19, 2007 – April 7, 2008
- D-28 Copies of Claimant's Website, 
- D-37 Form IG-BR-29
- D-38 Notification Letter dated February 20, 2008
- D-39 West Virginia Income Maintenance Manual § 10.24 and 10.24 Appendix C
- D-40 West Virginia Income Maintenance Manual § 10 Appendix A
- D-41 Department's Case Summary

Claimants' Exhibits:

- C-18 Hearing Request signed February 27, 2008, Correspondence from Claimant dated February 27, 2008, and Fax Confirmation dated February 28, 2008
- C-21 Verification Checklist dated February 19, 2008
- C-22 Notification Letters dated February 4, 2008
- C-23 Notification Letters dated March 7, 2008

VII. FINDINGS OF FACT:

- 1) On February 19, 2008 the Department received a report that Claimant had a web site for her online business, [REDACTED] Self-employment income of \$600 monthly was added to Claimant's case. Claimant's WV Works benefits closed due to excessive income. A notification letter dated February 20, 2008 was issued and read in part (D-38):

Your WV Works will stop. You will not receive this benefit after March 2008. Income from self-employment has increased. Income is too much for you to receive benefits.

Claimant's Food Stamp benefits were pended for verification of the self-employment income. A verification checklist was issued and read in part (C-21):

This is to inform you that the information listed below is needed to establish your eligibility and/or deductions for Food Stamps. If this information is not made available to this office by February 29, 2008 your eligibility for benefits and/or deductions cannot be established or continued.

Contract Work: Proof of gross income from self-employment.

- 2) Claimant's caseworker received a hearing request from Claimant on February 29, 2008. Claimant's Food Stamps were closed on March 6, 2008 when verification of self-employment income was not received (D-24). A notification letter dated March 7, 2008 was issued and read in part (C-23):

Your Food Stamps will stop. You will not receive this benefit after March 2008. You did not turn in all requested information.

Contract Work: Proof of gross self-employment income.

- 3) Claimant testified that her web site was closed in February 2008 due to non-payment of her online bill. She testified that she did not make any money from the services offered on her web site. The web site accepted credit cards for payment and she never purchased a credit card machine. Claimant faxed two copies of the hearing request over the closure of her benefits on February 28, 2008 and a letter to her caseworker, Laura Cochran. The letter dated February 27, 2008 read (C-18):

There is no changes to report. There also isn't contract agreement to report per you [sic].

Because Claimant was having difficulty with the Department receiving items from her timely manner, she kept the confirmation page for the fax she sent. The confirmation page shows three (3) pages sent to the Department's fax number on February 28, 2008. The three pages were two copies of the hearing request (one for each program) signed by Claimant on February 27, 2008 and the letter to Ms. Cochran also signed on February 27, 2008.

4) West Virginia Income Maintenance Manual § 4.1 states:

Verification of negative statements is not routinely required, unless the client's statement is questionable.

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.

The Worker must accept any reasonable documentary evidence as verification and must not require a specific kind or source of verification, if the client's verification is reasonable. Verification may be submitted in person, by mail, fax or electronically.

5) West Virginia Income Maintenance Manual § 10.4 A(3) and 10.24 A(3) states:

When the client reasonably expects to receive income from a new source during the new certification period, or when the amount of income from an old source is expected to change, the Worker must consider the income which can be reasonably expected to be received.

When self-employment income is anticipated, proceeds from the sale of capital goods and equipment must be anticipated also.

Steps for Anticipating Income:

Step 1: Determine if the Income Group expects to receive income from a new source, or expects a different amount from an old source, in the new certification period.

If not, none of the following steps are necessary. However, the Worker must record the client's statement that he does not expect income from a new source.

Step 2: Determine the amount of income the client can be reasonably expected to receive from the new source, or the new amount from the old source.

If the amount of income cannot be reasonably anticipated, none of the following steps are necessary and income from this source is not considered for the new certification period. The Worker must record the client's statement that he expects income from a new source or that the amount from an old source will change.

In addition, the Worker must record why the amount of income cannot be reasonably anticipated and information about all the attempts made to determine the amount.

When it is possible to reasonably anticipate a range of income, the minimum amount that can be anticipated is used.

Step 3: Determine when the client can be reasonably expected to receive income from the new source or the changed amount from the old source.

If the date of receipt cannot be reasonably anticipated, income from this source is not considered. The Worker must record the client's statement that he expects income from a new source or a change in the amount from an old source. In addition, the Worker must record why the date of receipt cannot be anticipated and information about attempts made to determine the date of receipt.

Step 4: When the amount and date of receipt can be anticipated, the Worker treats the income according to item 4 below.

The Worker must record how the amount and date of receipt were projected.

6) West Virginia Income Maintenance Manual § 10.4 D(4) and 10.24 D(3) states:

The method used to determine monthly gross income from self-employment varies with the nature of the enterprise. It is necessary to determine which of the following types of self-employment applies to the client's situation. Once the pattern of self-employment has been determined, this is used to determine how the income is counted.

AG's with a new business, that has been in existence less than a year, have their income averaged over the amount of time the business has been in operation. From this, the monthly amount is projected for the coming year. However, if the averaged amount of past income does not accurately reflect the anticipated monthly circumstances because of a substantial increase or decrease in business, the income is calculated based on anticipated earnings.

Incurred business expenses are also averaged over the amount of time the business has been in operation. However, if the averaged amount of past expenses does not accurately reflect the anticipated monthly circumstances because of a substantial increase or decrease in business, the expenses are calculated based on anticipated costs.

Gross profit from self-employment is the income remaining after deducting any identifiable costs of doing business from the gross income.

(1) Deductions

Examples of allowable deductions include, but are not limited to:

- Employee labor costs, including wages paid to an AG member and any salary the client pays himself.
- Stock and supplies
- Raw material
- Seed
- Fertilizers
- Repair and maintenance of machinery and/or property
- Cost of rental space used for conducting the business
- Payments on the principal and interest of the purchase price of income-producing real estate and capital assets, equipment, machinery and other durable goods
- Insurance premiums and taxes paid on the business and income-producing property
- The utilities, principal, interest and taxes for the client's residence which is used in part to produce income. This is applicable only if the costs on the portion of the home used in the self-employment enterprise can be identified separately.
- Advertising costs
- Utilities
- Office expenses, such as stamps, stationery, etc.
- Legal costs
- Net Loss from self-employment farming.

VIII. CONCLUSIONS OF LAW:

- 1) As indicated in policy, the least amount of income to be anticipated is counted until a reasonable pattern can be established. The amount of self-employment income of \$600 monthly that was added to Claimant's case closed her WV Works benefits due to excessive income without giving her the opportunity to provide an estimate of her anticipated income and expenses.
- 2) Claimant's Food Stamp benefits were closed due to her failure to verify the self-employment income. However, Claimant did contact the Department after she received the verification checklist and before the due date on the verification checklist. In her letter to her caseworker, she had no income or changes to report. Claimant's Food Stamps were terminated after the receipt of the letter.
- 3) Per policy, Claimant's negative statement regarding her self-employment income should have been accepted and her WV Works and Food Stamp benefits should not have been terminated.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the decision of the Department to terminate Claimant's WV Works due to excessive income and Food Stamps due to failure to verify self-employment income.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of May, 2008.

**Kristi Logan
State Hearing Officer**