



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

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

March 30, 2005

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 22, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for Food Stamp benefits.

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 the Food Stamp Program is based on current policy and regulations. Some of these regulations state that in order to be eligible for Food Stamp benefits, the Assistance Group's (AG's) countable assets cannot exceed \$2000. (West Virginia Income Maintenance Manual ' 11.4 and 7 CFR 273.8-Code of Federal Regulations)

Information submitted at the hearing reveals that your assets exceed the maximum allowable asset limit for the Food Stamp Program.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your application for Food Stamp benefits.

Sincerely,

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

cc: Chairman, Board of Review  
John Kalinowski, ESW, DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES  
SUMMARY AND DECISION OF THE STATE HEARING OFFICER**

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**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on March 30, 2005 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 originally convened on March 22, 2005 on a timely appeal filed February 23, 2005.

It should be noted here that benefits under the Food Stamp Program have been denied.

All persons giving testimony were placed under oath.

**II. PROGRAM PURPOSE:**

The program entitled **Food Stamps** is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

The purpose of the Food Stamp Program is to provide an effective means of utilizing the nations abundance of food to safeguard the health and well-being of the nations population and raise levels of nutrition among low-income households. This is accomplished through the issuance of food coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

**III. PARTICIPANTS:**

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

John Kalinowski, ESW, DHHR

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

**IV. QUESTION TO BE DECIDED**

The question to be decided is whether the Agency was correct in denying the Claimant's application for Food Stamp benefits.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual ' 11.2, 11.3 & 11.4  
7 CFR ' 273.8 - Code of Federal Regulations

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

- D-1 Notice of Decision Dated 2/14/05
- D-2 Kelley Blue Book – Blue Book Motorcycle Retail Report (2/23/05) suggested Retail value of a 2001 Honda TRX450S Foreman S
- D-3 Kelley Blue Book – Blue Book Motorcycle Trade-in Report (2/23/05) 2001 Honda TRX450S Foreman S

## **VII. FINDINGS OF FACT CONCLUSIONS OF LAW:**

1. The Claimant was undergoing a redetermination for Food Stamp and Medicaid eligibility in February 2005, when she reported that she moved in with her ex-husband, \_\_\_\_\_.
2. The Claimant's ex-husband was added to the Assistance Group (AG), and when a vehicle check was completed with the Department of Motor Vehicles, it was determined that he (\_\_\_\_\_) owned a 2001 Honda TRX 450S Forman S, all terrain vehicle, hereinafter ATV.
3. A review of the Kelley Blue Book revealed that the retail value (D-2) is \$3610 and the trade-in value (D-3) is \$2465. Because the ATV is not financed, and it cannot be excluded like a motorcycle or car, the Department determined the value of the ATV exceeded the \$2000 asset limit for Food Stamp benefits.
4. On February 14, 2005, a Notice of Decision (D-1) was sent to the Claimant advising that he Food Stamps would stop effective February 2005 because "The amount of assets is more than is allowed for this benefit."
5. The Claimant testified that the ATV does not run and it is not worth the amount listed in the Kelley Blue Book. She stated that her ex-husband would not assist her in getting an estimate of the ATV's value from a reputable ATV dealer.
6. West Virginia Income Maintenance Manual, Chapter 11.2 provides for the DETERMINATION OF THE VALUE OF COUNTABLE ASSETS. This policy provides that only the individual's equity or portion of actual ownership is considered, unless otherwise specified in Section 11.4 or 11.5. Equity is determined only as follows:
  - Determine the CMV of the asset.
  - Multiply the number of installment payments remaining by the amount of the installment payment Do not use the pay-off amount unless the client indicates he has immediate plans to pay off the balance.
  - Subtract the result of the calculation from the CMV. The remainder is the equity value.
7. West Virginia Income Maintenance Manual, Chapter 11.3, indicates that as a condition of eligibility for the Food Stamp Program, the AG's total countable assets cannot exceed \$2,000.
8. West Virginia Income Maintenance Manual ' 11.4, (EE) states that recreational vehicles are coded in RAPIDS as personal property, not as vehicles. This includes all terrain vehicles (ATV's) and similar vehicles.

## **VIII. DECISION:**

The regulations that govern the Food Stamp Program provide that the AG's assets shall not exceed \$2,000. The value of the Honda ATV, according to the Claimant, is significantly less than the amount provided by the Kelley Blue Book but she was unable to provide verification of this claim. The Department simply cannot determine Food Stamp

eligibility without evidence to verify that the AG is below the \$2000 asset limit.

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **uphold** the Department's action to deny the Claimant's application for Food Stamp benefits.

**IX. RIGHT OF APPEAL**

See Attachment

**X. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29