



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

August 1, 2005

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

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 8, 2005. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your Food Stamp benefits.

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 and benefit levels for the Food Stamp Program are based on current policy and regulations. Some of these regulations state: Eligibility for Food Stamp benefits and the amount of the Food Stamp allotment are based on a determination of countable household income (that income remaining after all appropriate disregards and deductions are applied) and the number of individuals in the Food Stamp benefit group. (West Virginia Income Maintenance Manual ' 10.4 and 7 CFR 273.10(e) - Code of Federal Regulations)

The information which was submitted at your hearing revealed that your monthly countable net income exceeds the maximum allowable net income for an Assistance Group of two (2).

It is the decision of the State Hearings Officer to **uphold** the action of the Department in denying your reevaluation/application in April 2005.

Sincerely,

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

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

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: \_\_\_\_\_**

**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 August 1, 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 convened on July 8, 2005 on a timely appeal, filed April 14, 2005.

It should be noted here that the Claimant's benefits were continued pending a hearing decision.

**II. PROGRAM PURPOSE:**

The Program entitled Food Stamp 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

### **III. PARTICIPANTS:**

\_\_\_\_\_, Claimant  
\_\_\_\_\_, Claimant's wife  
Lisa Heater, 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 is correct in their proposal to close the Claimant's Food Stamp case based on excessive countable income.

### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual ' 10.4 and Appendix C.  
7 CFR ' 273.9 & 7 CFR ' 273.10 - Code of Federal Regulations

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

#### **Department's Exhibits:**

DHHR-1 Notice of Decision dated 4/15/05  
DHHR-2 Income verification for \_\_\_\_\_ and \_\_\_\_\_  
DHHR-3 WVIMM, Chapter 10.4.C  
DHHR-4 WVIMM, Chapter 10, Appendix A  
DHHR-5 Food Stamp Calculation Sheet

#### **Claimants' Exhibits:**

\*Claimant's exhibit -1 Verification of prescription (medical) costs and shelter expenses

\*Indicates that the information was received after the hearing.

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

- 1) The Claimant's Food Stamp case was undergoing a reevaluation to determine continued eligibility and benefit levels in April 2004.
- 2) The Department reviewed the information provided by the Claimant and determined that the Assistance Group's (AG's) monthly countable net income was in excess of the maximum allowable income for an AG of two (2).

- 3) On April 15, 2005, the Department sent the Claimant a Notice of Decision (DHHR-1) that includes some of the following pertinent information.

**Action:** Your Food Stamps will stop. You will not receive this benefit after April 2005.

**Reason:** Income is too much for you to receive benefits. The income we count is too much for you to receive benefits. Your income has increased.

- 4) The Claimant contested the countable monthly income amount (income remaining after all deductions and disregards are applied) as his rent was \$475 at the time of the review (not \$354 as recorded by the Department) and he was not given the opportunity to receive credit for out-of-pocket medical expenses in excess of \$35.
- 5) The record remained open for a period of 10-days to allow the Claimant an opportunity to verify his rent at the time of application and to provide monthly medical expenses.
- 6) Claimant's exhibit-1 was received within the 10-days period and is considered in this decision. This exhibit verifies the Claimant's shelter (rent) amount at \$475 per month at the time of reevaluation / application and out-of-pocket medical costs were averaged at \$12.24 per month.

The Claimant could not be given credit for all of the prescription billing provided because some of the prescription information was old and several documents failed to provide the Claimant's cost (co pay). Because the Claimant's monthly out-of-pocket medical expenses are not in excess of \$35, no additional deduction can be applied.

The new income amount for \_\_\_\_\_ provided in Claimant's exhibit-1 is not relevant to the April 14, 2005 denial.

- 7) The following calculations were used in determining eligibility for the purpose of this hearing:

\_\_\_\_\_ \$1053.69 verified earned income

\_\_\_\_\_, \$ 423.00 verified SSI income

The AG's total income is \$1476.69

1053.69	Monthly Unearned Income (Christine)
<u>- 210.73</u>	Earned Income Deduction (20% deduction)
+ 423.00	unearned income
1265.96	Adjusted Income
- 134.00	Standard deduction
<u>- 0.00</u>	Medical deduction (*in excess of \$35) – no deduction given
1131.96	Adjusted income

Shelter cost:	475	*New verified rent amount
Utility cost:	<u>45</u>	
Total	520	
2 Adj inc.	<u>-565.98</u>	
Shelter/Util Deduction	0.00	

1131.96	Adjusted Income
<u>- 0.00</u>	Shelter/Util. Deduction
<b>\$1131.96</b>	<b>Countable Income</b>

- 8) WV Income Maintenance Manual, Chapter 10.4 contains policy regarding income disregards and deductions, and to computation of and eligibility for Food Stamp benefits. It also states: To determine the coupon allotment, find the countable monthly income and number in the benefit group. The income deductions permitted in the Claimant's case are listed in Finding of Fact #7.
- 9) WV Income Maintenance Manual, Chapter 10.4.C.1 - states that when at least one AG member is elderly or disabled as specified in Section 12.15.B, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. There is no gross income test.
- 10) According to the WV Income Maintenance Manual, Chapter 10, Appendix C, the maximum allowable NET Income for an AG of two (2) is \$1041.00.  
The Claimant's AG has a net monthly income of 1131.96

### VIII. CONCLUSIONS OF LAW:

- 1) The Claimant's reevaluation/application for Food Stamp benefits in April 2005 included an incorrect shelter/rent deduction. The verified rent amount of \$475 for April 2005 has been considered, however, the new amount fails to establish eligibility for the Food Stamp Program.
- 2) The AG's countable monthly income of \$1131.96 is in excess of the maximum allowable net income of \$1041 for an AG of two.
- 3) Based on the evidence presented at the hearing, the Department has followed proper procedure in denying your reevaluation/application for Food Stamp benefits.

### IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your reevaluation/application for Food Stamp benefits in April 2005.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 1st Day of August, 2005.**

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**Thomas E. Arnett  
State Hearing Officer**