



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

September 23, 2005

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 21, 2005. Your hearing request was based on the Department of Health and Human Resources' action to deny you 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 eligibility for Food Stamp benefits and the amount of the Food Stamp allotment are based on a determination of countable household income and the number of individuals in the Food Stamp benefit group. If none of the Assistance Group members are elderly or disabled, the AG=s gross income must be equal to or less than the gross income limit in Appendix A for the AG size. (West Virginia Income Maintenance Manual ' 10.4,C & Appendix A and 7 CFR 273.9-Code of Federal Regulations)

The information which was submitted at the hearing revealed that your gross monthly income exceeds the maximum allowable income for a Food Stamp assistance group with four (4) members.

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: Erika H. Young, Chairman, Board of Review  
Debra Parker, 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 for September 23, 2005. 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 21, 2005 on a timely appeal, filed May 2, 2005.

**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 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 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  
Debra Parker, 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 Agency was correct in their action to deny the Claimant's application for Food Stamp benefits.

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

West Virginia Income Maintenance Manual ' 9.1, 10.4 and Appendix A and  
7 CFR ' 273.9 - Code of Federal Regulations

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

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

- D-1 Notice of Decision dated 4/22/05
- D-2 Food Stamp Allotment Determination
- D-3 WVIMM 9.1

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

- 1) On April 22, 2005, the Department sent the Claimant a Notice of Decision that includes some of the following pertinent information:

Action: Your 4/14/05 application for Food Stamps has been DENIED.

Reason: Income is too much for you to receive benefits.

- 2) The Claimant filed her appeal to determine why \_\_\_\_\_ was not eligible to secure Food Stamp benefits on his own since he is not her child, and to see why she was unable to count her daughter who is a college student residing in [REDACTED]. She contends that she must still support her and none of that money is counted. She does not understand how she could make too much money to be eligible for Food Stamp benefits.
- 3) The Department determined that the Claimant's assistance group (AG) consists of four (4) members - the Claimant, her daughter, \_\_\_\_\_ (under age 18), her grandson, \_\_\_\_\_, and \_\_\_\_\_'s father, also under age 18).
- 4) The Department cited West Virginia Income Maintenance Manual, 9.1.A.c.2, which states - Children, under the age of 18, who are under the parental control of an adult AG member who is not a parent, and the member who exercises parental control, are assumed to purchase and prepare their food together and, therefore, must be in the same AG. For this reason, \_\_\_\_\_ cannot be his own Food Stamp AG.
- 5) Policy found in the West Virginia Income Maintenance Manual, Chapter 9.1 addresses Food Stamp policy concerning college students. As it applies in this case, the Claimant's daughter is not residing with the Claimant (purchasing and preparing food)

at least 50% of the time and the Claimant stated that her daughter is not employed at least 20 hours per week. As a result, the Department has correctly determined that this individual cannot be included in the AG.

- 6) West Virginia Income Maintenance Manual, Chapter 10, Appendix A provides that the Maximum allowable gross monthly income for an AG of four (4) is \$2043.
- 7) Evidence submitted by the Department reveals that the Claimant's gross monthly income is \$2361.06.

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

- 1) The Department has correctly applied policy in determining who must be included in the Claimant's Food Stamp AG. The Claimant's AG consists of four (4) members.
- 2) Whereas the Claimant's income exceeds the maximum allowable gross monthly income for a Food Stamp AG of four (4), the Department was correct in denying the Claimant's April 14, 2005 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 the Claimant's application for Food Stamp benefits.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 23<sup>rd</sup> Day of September, 2005.**

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**Thomas E. Arnett  
State Hearing Officer**