



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
227 Third Street
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 1, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 31, 2005. Your hearing request was based on the Department of Health and Human Resources' action to disallow a Food Stamp Program deduction for your automobile payment and car insurance costs.

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 as follows: Items considered in arriving at shelter costs are the continuing amounts of a car payment when the Assistance Group lives in the vehicle and insurance on the vehicle itself when the Assistance Group lives in the vehicle.

Information submitted at your hearing revealed that you do not reside in your vehicle and are, therefore, not entitled to a deduction for your automobile payment and insurance.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to disallow car payment/insurance deductions in determining countable income for the Food Stamp Program.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Jennifer Phillips, 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 September 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 August 31, 2005 on a timely appeal filed August 3, 2005.

II. PROGRAM PURPOSE:

The Program entitled Food Stamps 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
Jennifer Phillips, Economic Service Worker, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 took the correct action to disallow automobile payment/insurance deductions in determining countable income for the Food Stamp Program.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section 10.4a

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing summary
- D-2 Hearing request
- D-3 Copy of deduction denial letter dated August 3, 2005
- D-4 West Virginia Income Maintenance Manual Section 10.4a

Claimant's Exhibits:

- C-1 Statement of monthly expenses

VII. FINDINGS OF FACT:

1) The Claimant completed a Food Stamp redetermination on August 3, 2005. At that time, she was informed that she would not receive deductions for her vehicle payment and automobile insurance in determining countable Food Stamp income.

2) The Claimant was sent a letter dated August 3, 2005 (D-3), which states:

Your application for a deduction for Food Stamps for car payment and insurance has been denied effective 8/05. A deduction for Food Stamps for a car payment and car insurance is not allowed unless this is your home.

3) The Claimant, who stated her vehicle is used for transportation to medical appointments and to grocery stores, provided a list of her monthly expenses for August (C-1), which totaled \$1,225.34 and included a house payment, a trailer payment and various utilities. She stated that this amount does not include additional expenditures for medicines, food and household items such as laundry detergent and soap. She testified that her monthly household income is \$1,322, which includes two SSI payments and child support.

4) West Virginia Income Maintenance Manual Section 10.4a states, in part:

Items considered in arriving at shelter costs are the continuing amounts of:

- Rent. Security or damage deposits are not a shelter expense.
- Mortgage payments. This includes second mortgages and home equity loans and any other loans for which the dwelling is used as collateral.
- Interest on mortgage payments.
- Condominium and association fees, regardless of purpose for the fees.
- Property taxes and special tax assessments on the structure and lot required by State or local law. This does not include assessments such as police and fire fees, unless the fee is based on property valuation.
- Insurance on the structure and lot. This does not include insurance on furniture or personal belongings.

If the insurance cost on the structure and the cost on the personal belongings/furniture cannot be identified separately, the entire insurance payment is allowed.

- Cost of repairing the home which was damaged or destroyed due to a natural disaster such as a fire or flood. This does not include charges that will be or have been reimbursed from any source such as insurance, private agency, etc.
- A car payment when the Assistance Group lives in the vehicle.
- Insurance on the vehicle itself when the Assistance Group lives in the vehicle.

VIII. CONCLUSIONS OF LAW:

- 1) Policy reveals that the costs of automobile payments/insurance are only permissible as Food Stamp deductions if the Assistance Group resides in the vehicle.
- 2) The Claimant does not reside in her vehicle.
- 3) The Department took the correct action in disallowing a deduction for the Claimant's vehicle payment and auto insurance.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying car payment/insurance deductions for the Food Stamp Program.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 1st Day of September, 2005.

**Pamela L. Hinzman
State Hearing Officer**