



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street West
Charleston, WV 25313**

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 16, 2005

Ms. _____

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 15, 2005. Your hearing request was based on the Department of Health and Human Resources' action to decrease 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 for the Food Stamp Program is based on current policy and regulations. Some of these regulations state as follows:

Medical expenses in excess of \$35 must be allowed as a medical deduction. Only the medical expenses of AG members who are elderly or disabled, as defined in Section 12.15, B, are considered. Once the medical expenses of all such AG members have been totaled, the amount of the total in excess of \$35 is used as a medical deduction. There is no maximum dollar limit for the amount of a medical deduction. Thirty-five dollars (\$35) is deducted from the total amount of expenses for the AG, not \$35 from each person's expenses. (WV Income Maintenance Manual 10.4 (A) (6) Food Stamp Program - Medical Expenses).

The information submitted at your hearing revealed: There was no available medical expenses to support your allegation that your Food Stamp Benefits should not be decreased.

It is the decision of the State Hearing Officer to uphold the action of the Department to decrease your Food Stamp Benefits, according to the notification letter dated July 29, 2005.

Sincerely,

Ray B. Woods, Jr., M.L.S.
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Eric Whitlock, Economic Services Worker

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

_____,
Claimant,

v.

Action Number: 05-BOR-6429

**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 November 16, 2005 for Ms. _____. 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 convened on September 20, 2005 on a timely appeal filed August 12, 2005. The hearing was rescheduled and convened on November 15, 2005.

It should be noted here that Ms. _____ is a current recipient of Food Stamp Benefits. A pre-hearing was held between the parties prior to the scheduled hearing. Ms. _____ was not represented by a legal representative.

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*

Eric Whitlock, Economic Services Worker – Kanawha DHHR Office

* Participated by conference call

Presiding at the Hearing was, Ray B. Woods, Jr., M.L.S., State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is: Did the Department properly calculate the amount of Ms. _____'s Food Stamp Benefits?

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 4.2 (C) (2) Medical Expenses- Income Deductions and; West Virginia Income Maintenance Manual Chapter 10.4 (6) Food Stamp Program - Medical Expenses.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WVIMM 4.2 (C) (2) Medical Expenses
- D-2 WVIMM 10.4 (6) Medical Expenses
- D-3 Food Stamp Decrease Letter dated 07/29/05
- D-4 Scheduling Notice dated 10/31/05 (Rescheduled)
- D-5 Request to reschedule hearing dated 10/25/05
- D-6 Abandonment Letter dated 10/17/05
- D-7 Scheduling Notice dated 08/15/05
- D-8 Hearing Request dated 08/07/05

Claimants' Exhibits:

- C-1 None

VII. FINDINGS OF FACT:

- 1) This issue involves a decrease in Food Stamp Benefits based upon medical expenses. The Department issued a letter to Ms. _____ on July 29, 2005, (Exhibit D-3), stating in part, "Your Food Stamps will decrease from \$135.00 to \$47.00. The reasons given were a decrease in Medical and, Shelter and/or Utility costs." Ms. _____ requested a hearing per Exhibit D- 8, dated August 7, 2005. The Department received the request on August 11, 2005.

A hearing was convened by conference call, at Ms. _____'s request, on September 20, 2005. Ms. _____ stated during the hearing that, she had an attorney with Legal Aid of West Virginia. The State Hearing Officer gave Ms. _____ a deadline

of September 26, 2005 to have her attorney contact the Department. There was no contact with the Department and, an Abandonment Letter was issued on October 17, 2005. The State Hearing Officer received a letter from Ms. _____ requesting to reschedule the hearing. At Ms. _____'s request, the hearing finally convened by conference call on November 15, 2005.

- 2) Ms. _____ testified that she had mailed copies of her medical expenses to the Department on several occasions and, they are constantly lost. She has enlisted the assistance of an employee in the Governor's Office to address the matter. The State Hearing Officer advised Ms. _____ to have the employee in the Governor's Office contact Mr. Whitlock, regarding any additional medical documentation.
- 3) Mr. Whitlock testified that some of the bills for transportation reimbursement were not an allowable deduction for medical expenses. Despite Ms. _____'s statement that the bills were sent to the Department, there are none to be found. Mr. Whitlock referred to West Virginia Income Maintenance Manual Chapter 4.2 (C) (2) Medical Expenses – Income Deductions and; West Virginia Income Maintenance Manual Chapter 10.4 (6) Food Stamp - Medical Expenses.
- 4) West Virginia Income Maintenance Manual Chapter 4.2 (C) (2) Medical Expenses – Income Deductions states in part,

ITEM	PROGRAMS	WHEN TO VERIFY	POSSIBLE SOURCES OF VERIFICATION
Medical Expenses Verify amount owed by the client which will not be reimbursed by a 3 rd party. FS: Anticipated medical expense may be used.	FS, SSI-Related and AFDC/U Related Medicaid	FS: Prior to approval, at redetermination and when the client reports a change of more than \$25 in total medical expenses and the CA will increase SSI- and AFDC/U Related Prior to using the expense For spenddown	Medical bills, medical receipts, written estimates of anticipated cost from the insurance EOB, billing staff in hospital or hospital or doctor's office, shipping invoices for mail order prescription drugs and their shipping costs

- 5) West Virginia Income Maintenance Manual Chapter 10.4 (6) Food Stamp Program - Medical Expenses states in part:

Medical expenses in excess of \$35 must be allowed as a medical deduction. Only the medical expenses of AG members who are elderly or disabled, as defined in Section 12.15, B, are considered. Once the medical expenses of all such AG members have been totaled, the amount of the total in excess of \$35 is used as a medical deduction. There is no maximum dollar limit for the amount of a medical deduction. Thirty-five dollars (\$35) is deducted from the total amount of expenses for the AG, not \$35 from each person's expenses.

- 6) There was no available medical documentation to support Ms. _____'s allegation that her Food Stamps should not be decreased.

VIII. CONCLUSIONS OF LAW:

West Virginia Income Maintenance Manual Chapter 10.4 (6) Food Stamp Program - Medical Expenses states in part:

Medical expenses in excess of \$35 must be allowed as a medical deduction. Only the medical expenses of AG members who are elderly or disabled, as defined in Section 12.15, B, are considered. Once the medical expenses of all such AG members have been totaled, the amount of the total in excess of \$35 is used as a medical deduction. There is no maximum dollar limit for the amount of a medical deduction. Thirty-five dollars (\$35) is deducted from the total amount of expenses for the AG, not \$35 from each person's expenses.

The Department did not receive documentation of allowable medical expenses that could be used as a medical deduction for the Food Stamp Program.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to decrease Ms. _____'s Food Stamp Benefits, according to the notification letter dated July 29, 2005.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 16th Day of November, 2005.

Ray B. Woods, Jr., M.L.S.
State Hearing Officer