



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

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

November 18, 2005

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' proposal to decrease your Food Stamp benefits since you are no longer responsible for paying all utility 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 that a shelter/utility expense is only allowed as a Food Stamp deduction if the cost is paid with the resources of the Assistance Group. (West Virginia Income Maintenance Manual Section 10.4, B, 7)

Information submitted at the hearing revealed that your father currently pays your utility costs, with the exception of your telephone bill. Since you no longer pay other utility costs with your own resources, you are not entitled to a Food Stamp deduction for these expenses.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to decrease your Food Stamp benefits.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Sally Conley, ESW, DHHR

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

_____,
Claimant,

v.

Action Number: 05-BOR-6698

**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 18, 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 November 15, 2005 on a timely appeal filed September 26, 2005.

The Claimant's benefits have been continued pending the results of this hearing.

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 an EBT card to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

_____, Claimant

_____, father of Claimant

Sally Conley, 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 to be decided is whether the Agency is correct in its proposal to reduce the Claimant's Food Stamp benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 10.4 and Chapter 10, Appendix C

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 IG-BR-29
- D-2 IG-BR-40
- D-3 Food Stamp decrease letter dated September 21, 2005
- D-4 Verification checklist dated September 13, 2005 and response
- D-5 Verification checklist dated September 13, 2005 and Food Stamp redetermination form
- D-6 Copy of policy question and response
- D-7 Case comments
- D-8 West Virginia Income Maintenance Manual Chapter 10.4, B, 7
- D-9 Department hearing summary
- D-10 Copy of Food Stamp allotment determination screens

Claimant's Exhibits:

- C-1 Telephone bill

VII. FINDINGS OF FACT:

- 1) The Claimant, an SSI recipient, returned a 24-month Food Stamp recertification form dated August 26, 2005 (D-5) to the DHHR Customer Service Center.
- 2) The Claimant indicated on the redetermination form that her father assists her financially with shelter and utility costs as she does not receive enough income to pay her bills.
- 3) The Department sent the Claimant verification checklists on September 13, 2005 (D-4 and D-5) requesting confirmation of the amount of money provided by her father each month for her expenses.

- 4) Mr. _____ responded with a signed statement listing the Claimant's shelter and utility costs and expenses for medical needs and groceries. The expenses totaled \$525 per month. The statement said, in part:

All payments are made by me, directly to the utility companies. I sometimes have to help _____ pay for food and medicine and subsidize her income for other necessities.

- 5) The Customer Service Center removed all utility costs from the case since the Claimant no longer pays the expenses and informed the Claimant of the resulting action in a September 21, 2005 letter (D-3), which states, in part:

Action: Your Food Stamps will decrease from \$103 to \$41 effective 10/01/05.

Reason: Your shelter and utility costs are less.

The letter reveals the income calculations used in determining the Food Stamp allotment. The Claimant's gross monthly income is \$579 and her net adjusted income after deductions is \$367.50. This equates to a monthly Food Stamp allotment of \$41 for a one-person Assistance Group, according to West Virginia Income Maintenance Manual Chapter 10, Appendix C.

- 6) The Claimant's father testified that he began paying his daughter's shelter and utility costs as a result of the Claimant's need to settle her credit card debt. He stated that the Claimant pays \$204.21 monthly toward her credit card debt and cannot afford her personal bills. The Claimant does pay her telephone bill (C-1), which was submitted to the Department to determine a possible Food Stamp adjustment for future months.
- 7) West Virginia Income Maintenance Manual Chapter 10.4 contains policy regarding income disregards and deductions related to the computation of Food Stamp benefits. This section states that to determine the Food Stamp allotment, the countable income and number in the Assistance Group must be determined.
- 8) West Virginia Income Maintenance Manual Chapter 10.4, B, 7 states, in part:

After all other exclusions, disregards and deductions have been applied, 50% of the remaining income is compared to the total monthly shelter and utility costs. If the shelter/utility costs exceed 50% of the remaining income, the amount in excess of 50% is deducted.

The expense must be allowed only if the AG (Assistance Group) is obligated to pay, and the cost is paid with the resources of the AG. The deduction applies whether the expense is paid from excluded or non-excluded resources. There is no time period for deciding when an AG is no longer allowed a deduction for the bill. The AG is no longer allowed the deduction when the expense is no longer billed or is no longer due.

VIII. CONCLUSIONS OF LAW:

- 1) A Food Stamp redetermination form signed by the Claimant on August 30, 2005 and subsequent verification revealed that the Claimant's father has been assisting her with monthly utility costs.
- 2) In accordance with Income Maintenance Policy, the Department removed utility costs from the Claimant's case effective October 2005 since she no longer pays these expenses with her own resources. Information and testimony received during the hearing indicated that the Claimant's father assists with rent, however, the Claimant is currently receiving a deduction for this expense, according to information submitted in Exhibit D-10.
- 3) Upon removing the Claimant's utility expenses, the Department determined that the Claimant's net adjusted income after all applicable deductions is \$367.50. This net income equates to a monthly Food Stamp allotment of \$41, according to policy.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to decrease the Claimant's Food Stamp benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th Day of November, 2005.

Pamela L. Hinzman
State Hearing Officer