



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 8, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 5, 2006. Your hearing request was based on the Department of Health and Human Resources' decision 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 is based on current policy and regulations. Some of these regulations state as follows: Shelter costs are considered when determining deductions in Food Stamp income.

The information, which was submitted at your hearing, revealed that your Shelter cost decrease and caused a decrease in that deduction.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to reduce the amount of Food Stamp benefits.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Bevins, DHHR

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

Claimant,

v. **Action Number: 05-BOR-1150**

**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 April 5, 2006 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 April 5, 2006 on a timely appeal, filed February 14, 2006.

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
Steve Bevins, DHHR Supervisor Customer Service Center

Presiding at the Hearing was Sharon K. Yoho, 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 Agency was correct in their actions to reduce Food Stamp benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 10.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case comments 2/3/06 thru 2/14/06
- D-2 Food Stamp Allotment Determination using \$608. shelter expense
- D-3 Food Stamp Allotment Determination using \$174. shelter expense
- D-4 West Virginia Income Maintenance Manual Policy § 10.4
- D-5 Notification of March Food Stamps decreased to \$50.
- D-6 Notification of March Food Stamps decreased to \$38.

VII. FINDINGS OF FACT:

- 1) Mr. ____ was an active recipient for Food Stamps in February 2006.
- 2) Mr. ____ received a cost of living increase in his Social Security income in January 2006. He also reported a decrease in Shelter expense in February. Both of these changes took place in the computer system in the month of February.
- 3) The claimant's Social Security amount increased from \$656. to \$683.50. His Shelter cost decreased from \$608. to \$174.
- 4) The computer system generated more than one letter to Mr. ____ in the month of February advising him of his March benefit amount.
- 5) One of the letters identified his March benefits using the new shelter cost as a deduction against his old Social Security amount. This determined eligible benefits of \$50. One letter identified his March benefits using the new shelter cost as a deduction against his new Social Security amount. This determined eligible benefits of \$38.
- 6) Mr. ____ received these two letters on the same date in the mail, which caused some understandable confusion.
- 7) March benefit of \$38. was the correct amount to be issued using both the new income and the new shelter expense.

7) **West Virginia Income Maintenance Manual § 10.4 Food Stamp Income:**

7. Shelter/Utility Deduction

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 deduction cannot exceed the shelter/utility cap found in Appendix B.

a. Shelter Costs:

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

- Rent
- Mortgage payments
- Interest on Mortgage payments
- Condominium and association fees
- Property taxes
- Insurance on structure and lot
- Cost of repairing the home damaged or destroyed due to a natural disaster
- Car payment when the AG lives in the vehicle
- Insurance on the vehicle when AG living in the vehicle

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in Chapter 10.4 that the claimant's shelter costs are considered when determining deductions for Food Stamp countable income. The client's current shelter costs must be applied to the client's current income.
- 2) The main issue brought before this hearing officer in this case was one of confusion caused by the conflicting notification letters. The calculations, which used both the current income and the current rental expense, determined the correct Food Stamp benefits of \$38. for the month of March 2006.

IX. DECISION:

I rule to **uphold** the agency in its action to decrease the claimant's Food Stamp benefits to \$38.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of May 2006.

**Sharon K. Yoho
State Hearing Officer**