



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704**

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

April 17, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 14, 2006. Your hearing request was based on the Department of Health and Human Resources' action to determine that you are eligible for \$133 in Food Stamps in March, 2006.

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: The Food Stamp allotment is determined based on countable monthly income less allowable deductions for the number of benefit group members (WV Income Maintenance Manual Section 10.4 and Federal Regulations Section 273.9 & 273.10).

The information which was submitted at your hearing revealed that you were correctly determined to be eligible for \$133 in Food Stamps effective March, 2006.

It is the decision of the State Hearings Officer to uphold the action of the Department to determine that you are eligible for \$133 in Food Stamps in March, 2006.

Sincerely,

Thomas M. Smith
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Brenda Bailey, Department Hearing Rep.

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

_____,
Claimant,

v.

Action Number: 06-BOR-1412

**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 14, 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 14, 2006 on a timely appeal filed March 13, 2006.

It should be noted here that the claimant's benefits were approved pending a hearing decision.

II. PROGRAM PURPOSE:

The Program entitled Food Stamp Program 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:

1. _____, Claimant.

2. Brenda Bailey, Department Hearing Rep.

Presiding at the Hearing was Thomas M. Smith, 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 Department took the correct action to determine that the claimant was eligible for \$133 in Food Stamps effective March, 2006.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 10.3, 10.4.
Federal Food Stamp Regulations Sections 273.9, 273.10.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- A Copy of hearing summary (2 pages).
- B Copy of application (31 pages).
- C Copy of approval letter (4 pages).
- D Copy of Court Order 3-27-00 (5 pages).
- E Copy of printout of child support payments.
- F Copy of verification checklist 3-15-06
- G Copy of notice of auxiliary issuance.
- H Copy of child care expense statement.
- I Copy of notification letter 3-27-06 (4 pages).
- J Copy of regulations (53 pages).

VII. FINDINGS OF FACT:

- 1) The claimant applied for Food Stamps and Medicaid on 3-2-06 and the application was processed based on information provided by the claimant and the claimant was approved for \$94 Food Stamps for the month of March, 2006 (Exhibit #B).
- 2) Notification of approval for Food Stamps in the amount of \$94 was sent on 3-3-06 (Exhibit #C) and a hearing request and request for pre-hearing conference was received in the local DHHR office on 3-13-06 due to the amount of Food Stamps and a pre-hearing conference was held on 3-14-06 by telephone with Ms. Bailey.
- 3) During the pre-hearing conference, the claimant reported to Ms. Bailey that she was court ordered to pay \$50 per month child support and all arrears and interest and that she had child care expenses. Ms. Bailey verified through the Bureau for Child Support Enforcement (BCSE) that the claimant was court ordered to pay \$50 per month child support plus all arrears and interest and the Food Stamp case was corrected and the

claimant was eligible for \$133 in March, 2006 and an auxiliary issuance of \$39 was issued for the month of March, 2006 (Exhibit #G).

- 4) Ms. Bailey contended that the claimant did not report child care expenses during the interview on 3-2-06 and issued a verification checklist (Exhibit #F) for the claimant to verify child care expenses. The claimant provided verification of child care expenses on 3-23-06 (Exhibit #H) and the case was changed to increase the Food Stamps to \$213 effective April, 2006 (Exhibit #I) but no additional auxiliary was issued for March, 2006 as the application showed that the child care expense was not reported.
- 5) The claimant testified that she told the worker that her son was in Head Start and that she worked 9-5 and he got out between 3:15 and 3:30, that she had been approved by LINK for child care services but could not find anyone, and that the issue for the hearing is the amount of Food Stamps in March, 2006 as she thinks she should have received \$213 for March, 2006 also.
- 6) "WV Income Maintenance Manual Section 10.4, C, 2 states, in part:

2. Determining Countable Income

The following steps are used to determine countable income for cases meeting eligibility tests in item 1 above.

Step 1: Combine monthly gross non-excluded earnings and monthly gross profit from self-employment.

Step 2: Deduct 20% of Step 1.

Step 3: Add the gross non-excluded unearned income

Step 4: Subtract the Standard Deduction found in App. B.

Step 5: Subtract the Dependent Care Deduction up to the maximums found in Appendix B.

Step 6: Subtract the amount of legally obligated child support actually paid

Step 7: Subtract the Homeless Shelter Standard Deduction.

Step 8: Subtract allowable medical expenses in excess of \$35.

Step 9: Calculate 50% of the remaining income and compare it to the actual monthly shelter/utility cost or shelter/SUA amount.

Step 10:	No One Elderly or Disabled	At least One Person Elderly or Disabled
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Shelter/Utility Equal To or less than Step 9.	No further computation is needed. The amount from Step 8 is the	No further computation is needed. The amount from
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countable income.

Step 8 is the count. income

Shelter/Utility Greater Greater than Step 9	The amount in excess of 50%, of 50%, not to exceed the Shelter/utility cap, is ded- ucted to arrive at count. income.	The amount in excess of 50% is deducted, without regard to the shelter/utility cap, to arrive at countable income.
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Step 11: Compare the countable income to the maximum net income in Appendix A for the AG size. This net income test does not apply to Categorically Eligible AG's.

3. To determine the coupon allotment, find the income and the number in the AG in App. C..”

7. The area of dispute involved whether the claimant reported during the interview on 3-2-06 that she had a child care expense. There was no evidence to support the claimant's testimony that she had reported the child care expense during the application taken on 3-2-06 (Exhibit #B). The verification checklist issued to the claimant on 3-2-06 did not request verification of child care expenses. The State Hearing Officer finds that the preponderance of evidence and testimony show that the child care expense was not reported during the application taken on 3-2-06.

VIII. CONCLUSIONS OF LAW:

WV Income Maintenance Manual Section 10.4 C, 2 states that the Food Stamp allotment is determined by the countable income less allowable deductions and the number of persons in the AG. The claimant was determined to be eligible for \$133 in the month of March, 2006 after the child support deduction was verified and allowed as a deduction. Since there was no evidence that the claimant reported the child care expense during the application taken on 3-2-06, the State Hearing Officer finds that the claimant was correctly determined to be eligible for a Food Stamp allotment of \$133 for March, 2006.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to determine that the claimant was eligible for \$133 in Food Stamps for the month of March, 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th Day of April, 2006.

Thomas M. Smith
State Hearing Officer