



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

August 23, 2006

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 17, 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 program is based on current policy and regulations. Some of these regulations state as follows: To determine the coupon allotment, find the countable income and the number in the AG.

The information, which was submitted at your hearing, revealed that your child support income had not been counted previously. When the Department did count this income it correctly decreased your coupon allotment.

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
Hubbard, DHHR

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

_____,
Claimant,

v.

Action Number: 05-BOR-1814

**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 August 17, 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 August 17, 2006 on a timely appeal, filed May 3, 2006. This hearing was originally scheduled for July 11, and then rescheduled.

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
Ann Hubbard, DHHR, Income Maintenance Worker

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 Department 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 Computer screen of Child Support Financial Summary
- D-2 Computer screen of Employment Earnings record
- D-3 Computer screen of FS income and benefit calculation for May 2006
- D-4 Notification letter of decrease dated April 21, 2006
- D-5 West Virginia Income Maintenance Manual, chapter 10.4

VII. FINDINGS OF FACT:

- 1) The claimant is a recipient of Food Stamps and has been for an extended period of time. His calculated Food Stamp income had been based on only his earned income until April 2006 when he applied for emergency LIEAP and the Department determined that Mr. _____ had been receiving Child Support income.
- 2) Mr. _____ receives child support in the amount of \$108.18 every two weeks. When this income was added to the earned income already counted, his countable Food Stamp income increased from \$64.48 to \$413.36. This resulted in his coupon allotment being reduced from \$258. to \$154 effective for May 2006.
- 3) The Department issued a notification letter on April 21, 2006 advising of the proposed decrease in coupons. Mr. _____ requested a hearing on May 3, 2006.
- 4) Mr. _____ is not objecting to the amount of income that was being counted. He was concerned about the amount of the reduction of coupons. Ms. Hubbard went over the calculation process with the claimant and explained about the earned income deductions and shelter costs deductions. The Department correctly calculated Mr. _____'s countable food stamp income in April 2006.
- 5) The claimant voiced concerns regarding his not continuing to receive his benefits as they were prior to the hearing request. Ms. Hubbard is to address this problem and issue benefits which he did not receive during this hearing process.

- 6) Mr. _____ agrees that his earnings and his child support routinely stay constant in their amounts. He indicates that there are weeks in the winter months that he does not get his regular three days a week which reduces his earnings. He is to advise the Department if this occurs this winter so that his Food Stamp benefits can be adjusted.
- 7) **West Virginia Income Maintenance Manual § 10.4**
Determining Countable Income
The following steps are used to determine countable income for cases meeting the eligibility tests.
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, including the WV Works benefit and any amount reduced or being repaid to the WV Works due to failure to comply with a program requirement.
Step 4: Subtract the Standard Deduction found in Appendix B
- 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.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in Chapter 10.4 that both the claimant's earnings and his child support income must be counted in determining his allowable coupon allotment. It is also clear that as countable Food Stamp income increases, the Food Stamp allotment should decrease.
- 2) It can be concluded that the Department did calculate Mr. _____'s Food Stamp income correctly and proposed to issue the correct amount of Food Stamp allotment for May 2006.

IX. DECISION:

I rule to **uphold** the Department in its action to decrease the claimant's Food Stamp benefits to \$258. effective May 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 23rd Day of August 2006.

Sharon K. Yoho
State Hearing Officer