



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

July 14, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 12, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your Food Stamp application for failure to provide timely verification.

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 as follows: If an applicant fails to provide verifications requested on the verification checklist within the specified time limit and the application is denied, the Assistance Group must be given an opportunity to have its eligibility established for up to 60 days from the date of application without completion of a new form. If the client brings in the verifications before the 60-day period has expired, the worker determines eligibility based on the original application. (West Virginia Income Maintenance Manual Section 1.4A)

Information submitted at your hearing revealed that the Department did not receive your verification until May 10, 2006, which was more than 60 days from your March 6, 2006 Food Stamp application.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to deny your Food Stamp application based on failure to provide timely verification.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Debbie Fields, ESW, DHHR

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

_____,

Claimant,

v.

Action Number: 06-BOR-2018

**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 July 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 July 12, 2006 on a timely appeal filed May 31, 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
Debbie Fields, 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(s) to be decided is whether the Department took the correct action in denying the Claimant's Food Stamp application based on non-receipt of verification.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Section 1.4A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Front page of Food Stamp application dated March 6, 2006
- D-2 Verification checklist dated March 6, 2006
- D-3 Verification checklist dated March 7, 2006
- D-4 Food Stamp Notice of Decision dated April 19, 2006
- D-5 Verification date-stamped May 10, 2006
- D-6 Letter dated May 10, 2006 and West Virginia Income Maintenance Manual Section 1.4A

Claimant's Exhibit:

- C-1 Letter from _____ dated July 4, 2006

VII. FINDINGS OF FACT:

- 1) The Claimant completed a Food Stamp application on March 6, 2006 (D-1). On that date, the Claimant was issued a checklist requesting verification of her checking account balance and property tax expense (D-2).
- 2) The Department worker sent the Claimant a second checklist on March 7, 2006 (D-3) requesting that the Claimant either provide verification of job service registration or a physician's statement indicating that she is unable to work. Both checklists indicated that the Claimant must provide the verifications within 30 days, but that she would not have to make another application if the information was provided within 60 days of the application date.

- 3) The Claimant failed to provide the verification within 30 days and she was sent a Notice of Decision dated April 19, 2006 (D-4), which indicated that her application had been denied based on failure to provide the requested information.
- 4) The Department received the Claimant's verification (D-5), which was date-stamped as having been received on May 10, 2006. The Department responded with a May 10, 2006 letter to the Claimant indicating that the application could not be processed because the 60-day time limit had expired. This correspondence informed the Claimant that she would have to reapply for Food Stamps.
- 5) The Claimant testified that she is disabled, has an income of \$260 per month, has no vehicle and must pay someone to provide her with transportation. She testified that she mailed the requested information no later than April 26, 2006 and believes that it should have only taken two days to arrive at the [REDACTED] County DHHR office. She believes the information actually arrived at the office earlier than the May 10, 2006 date-stamp implies.

The Claimant provided a letter (C-1) from her friend, _____, who had visited her in April 2006. The letter, addressed to Ms. _____, states, in part:

I know you mailed the papers ahead of the deadline because I drove you to the Post Office in [REDACTED] to mail the letter. That was April 26th, Wednesday. We drove to the Post Office, you photocopied some papers that you needed to send, sealed them in a letter that was dropped in the slot at the [REDACTED] P.O. right then, before we left. That was supposed to be plenty of time for them to get to the required office.

- 6) Ms. Fields testified that correspondence sent to the DHHR is opened and date-stamped immediately upon receipt.
- 7) West Virginia Income Maintenance Manual Section 1.4A (D-6) states, in part:

Usually an application form is required to reapply for Food Stamp benefits. However, there are times when an AG may reapply without completing a new form. See Section 1.3, F, 2 for reopening benefits during a certification period.

- If an applicant AG fails to provide the verifications requested on the ES-6 or verification checklist within the specified time limit and the application is denied, the AG must be given an opportunity to have its eligibility established for up to 60 days from the date of application without completion of a new form. If the client brings in the verifications before the 60-day period has expired, the Worker determines the AG's eligibility based on the original application, noting in Case Comments any changes which have occurred since the form was completed. If the application is approved, Food Stamp benefits are not retroactive to the date of application because the approval delay was the fault of the client. Benefits are issued from the date the client provides

the verification. The Worker provides benefits using information reported during the original application and any other pertinent information provided prior to approval.

EXAMPLE: An application for Food Stamp benefits was made on November 1st. An ES-6 was issued requesting verification of income by November 30th. The verification was not provided by this date and the application was denied. The client brought in the requested information on December 5th. No new application form is required since the client reapplied within 60 days of the date of application. However, if the client is eligible, Food Stamp benefits are issued from December 5th.

VIII. CONCLUSIONS OF LAW:

- 1) Policy reveals that an applicant is not required to reapply for Food Stamps when requested verifications are provided within 60 days of the application date.
- 2) The Claimant applied for Food Stamps on March 6, 2006. While the Claimant indicates that she mailed requested verification for the application on April 26, 2006, the information was not date-stamped as having been received by DHHR until May 10, 2006.
- 3) The Department took the correct action in denying the Claimant's Food Stamp benefits since verification was received more than 60 days past the Claimant's application date.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying the Claimant's Food Stamp application.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 13th Day of July, 2006.

**Pamela L. Hinzman
State Hearing Officer**