



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901**

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 29, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 1, 2006. Your hearing request was based on the Department of Health and Human Resources' action to deny your application for food stamp benefits.

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: In cases with unearned income, coupon allotments are calculated by adding all non-excluded unearned income, subtracting the standard deduction, subtracting allowable medical expenses in excess of \$35, subtracting any legally obligated child support, giving a deduction for the amount of shelter/utility expenses in excess of 50% of the adjusted income and then comparing the resulting countable income to the Basis of Issuance Chart in Appendix C of Chapter 10. (WV Income Maintenance Manual Section 10.4(c) and 7 CFR 273.10(e).

The information which was submitted at your hearing revealed that your net countable income was calculated incorrectly.

It is the decision of the State Hearing Officer to reverse the action of the Department to deny your application for food stamps.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

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

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

_____,
Claimant,

v.

Action Number: 06-BOR-2074

**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 1, 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 1, 2006 on a timely appeal, filed June 5, 2006.

It should be noted here that the claimant's benefits have been denied.

II. PROGRAM PURPOSE:

The Program entitled Food Stamp 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 food coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department

III. PARTICIPANTS:

_____, Claimant
Brent Bragg, Department Hearing Representative

Presiding at the hearing was Margaret M. Mann, 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 is correct in the decision to deny the claimant's application for food stamps because financial requirements could not be met.

V. APPLICABLE POLICY:

Sections 9.1A, 10.4, Chapter 10 Appendix C, Chapter 10 Appendix A of the West Virginia Income Maintenance Manual
7 CFR 273.9, 7 CFR 273.10 and 7 CFR 273.1

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Request
- D-2 Denial Letter dated 05/31/06
- D-3 RAPIDS Food Stamp Net Income Test
- D-4 Rental Expense for Ms. _____ & Income for _____
- D-5 Unearned Income of SSI, Child Support – Ongoing and Arrearages, and Social Security
- D-6 Household Relationship Screens
- D-7 Case Comments
- D-8 Chapters 9.1A and 10.4 of the West Virginia Income Maintenance Manual

VII. FINDINGS OF FACT:

- 1) The claimant made an application for food stamps on May 30, 2006. The claimant lives in the same household with _____, the father of her twins, _____ and _____. She pays Mr. _____ rent of \$250.00 per month. Since Mr. _____ is the father of the twins, it was determined that he has to be included in the Assistance Group (AG). There are a total of six people in the household – _____ and.
- 2) The gross income was determined as follows: Ongoing child support averaged \$152.11 each for _____ SSI of \$402.00 for _____; Social Security Income of \$175.00 each for _____ and _____; Social Security Disability of \$1051.50 for _____; and \$250.00 rent paid to _____ by _____. Gross Monthly Income: \$2357.72.
- 3) A letter dated May 31, 2006 to _____ reads in part: Your 05/30/06 application for food stamps has been denied. Reason: Income is more than net income limit for you to receive benefits. The countable net income was \$2178.72. (D-2)

- 4) Testimony from Ms. _____ revealed that she has a separate room in Mr. _____'s home. She does not know what his income is. She pays \$250.00 a month in rent, the electric and water bill. She and Mr. _____ alternate paying the propane bill. They eat separately from Mr. _____.
- 5) Section 9.1A b (2) of the West Virginia Income Maintenance Manual reads in part that the following individuals living with others, or groups of individuals living together, must be considered as customarily purchasing food and preparing food together, i.e., being in the same AG, even if they do not do so. (1) Spouses must be in the same AG. There are no exceptions. (3) Parents living with their natural or adoptive children or stepchildren who are under 22 years of age and such children living with such parents are assumed to purchase and prepare their food together and, therefore, must be in the same AG.
- 6) Appendix A, Chapter 10 of the West Virginia Income Maintenance Manual shows that the allowable net income for an AG of six is \$2156.
- 7) Section 10.4B of the West Virginia Income Maintenance Manual reads in part that certain items may be allowed as income deductions to arrive at an AG's countable income. The expense must be billed or be due during the certification period in which the deduction is claimed. In addition, deductions from the AG's income are applied only if the expense has been or will be met by the AG's own resources. The AG must make a money payment to an individual not included in the AG to receive a deduction.
- 8) Section 10.4B #7 of the West Virginia Income Maintenance Manual reads in part that 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. The expense must be allowed only if the AG is obligated to pay, and the cost is paid with the resources of the AG.
- 9) Section 10.4C #3 of the West Virginia Income Maintenance Manual reads in part that to determine the coupon allotment, find the countable income and the number in the benefit group in Appendix C.
- 10) Section 10.4C#2 reads in part that the following steps are used to determine countable income for Food Stamps.

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 AFDC/U check and any amount being repaid to the AFDC/U or SSI programs, due to intentional misrepresentation.

Step 4: Subtract the Standard Deduction found in Appendix 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 of shelter/SUA amount.

Step 10:

	No One Elderly Or Disabled	At Least One Person Elderly or Disabled
Shelter/ Utility Equal To Or Less Than Step 9	No further computatio n is needed. The amount from Step 8 is the countable income.	No further computatio n is needed. The amount from Step 8 is the countable income.

Shelter/ Utility Greater Than Step 9.	The amount is excess of 50%, not to exceed the shelter/ utility cap, is deducted to arrive at countable 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 benefit group size.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that parents living with their natural or adoptive children or stepchildren who are under 22 years of age and such children living with such parents are assumed to purchase and prepare their food together and, therefore, must be in the same AG.
- 2) There are six in the AG. _____ is the natural parent of two of the children.
- 3) Although the claimant does not want _____ included in the AG, he must be included because he is the natural parent of two of the children and all are residing in the same household.
- 4) The claimant reports she pays _____ \$250.00 a month for rent. The Department included this in the gross monthly income.
- 5) Policy states that deductions from the AG's income are applied only if the expense has been or will be met by the AG's own resources. The AG must make a money payment to an individual not included in the AG to receive a deduction. Therefore, when calculating the net income, the \$250.00 should not be considered as a shelter deduction nor should it be considered income to _____. The money is being exchanged between two AG members.
- 6) The gross income for the AG is \$2107.72. (\$2357.72 less \$250)
- 7) \$2107.72 less \$179 (Standard Deduction) equals \$1928.72 which is the net adjusted income. No deductions are listed on the calculation sheet.
- 8) \$1928.72 is less than the FS Net Income Limit of \$2150 for an AG of six.

9) The Department's determination that the AG was over the net income limit is incorrect.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is reversed in the decision to deny the claimant's application for food stamps because the household was over the net countable income. It is correct that _____ must be included in the AG because he is the father of the twins. However, the rent the claimant pays to _____ should not be considered income as she is in the AG and all of her income is considered. If the rent she pays to _____ from her income is counted as income for him, this income is being counted twice for the AG. The claimant must agree to include _____ in the AG. If the claimant agrees to have _____ in the AG and all other eligibility requirements are met, the Department will recalculate the net adjusted income for the application dated May 30, 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of September, 2006.

**Margaret M. Mann
State Hearing Officer**