



**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 6, 2006

Dear Mr. _____

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 1, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to decrease your food stamps.

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 earned income, coupon allotments are calculated by adding all non-excluded earned income, deducting 20%, 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 income has increased. Your food stamps decreased to \$10.00.

It is the decision of the State Hearing Officer to uphold the proposal of the Department to decrease your food stamps.

Sincerely,

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

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

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

_____,
Claimant,

v.

Action Number: 06-BOR-2518

**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 September 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 September 1, 2006 on a timely appeal, filed May 18, 2006. It should be noted that this hearing was originally scheduled for August 31, 2006. The hearing was rescheduled for September 1, 2006 at the request of the claimant.

It should be noted here that the claimant's benefits have been terminated effective 09/2006 for failure to come in for a review.

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:

The following individuals participated telephonically:

_____, Claimant
Lucinda Lambert, 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 decrease the claimant's food stamps as the household income increased.

V. APPLICABLE POLICY:

Appendix C, Chapter 10 and section 10.4C of the West Virginia Income Maintenance Manual 7 CFR 273.10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Form IG-BR-29 Hearing/Grievance Record Information
- D-2 Hearing Request dated 05/16/06
- D-3 Notification Letter dated 05/15/06
- D-4 Section 10.4C of the West Virginia Income Maintenance Manual
- D-5 Department's Summary

VII. FINDINGS OF FACT:

- 1) The claimant was approved for food stamps on 03/28/06 and was referred to Food Stamp Employment and Training (FSE&T). The caseworker was notified that the claimant did not keep an appointment with the FSE&T worker and a sanction was entered effective 06/2006.
- 2) The claimant notified the Department that he was working for [REDACTED] at 40 hours per week @ \$5.75 per hour. The sanction was removed and the earnings were entered reducing the food stamps to \$10 per month effective 06/2006.
- 3) A notice was sent to the claimant dated 05/15/06. It reads in part: Your food stamps will decrease from \$152.00 to \$10.00 effective 06/01/06. Reason: Earned income increased. The computations show the net adjusted income as \$473.80. (D-3) The claimant requested a hearing on this issue. (D-2)

- 4) Testimony from the claimant revealed that the income the Department is using is correct. He lives in [REDACTED] and drives eighteen miles to work. He pays \$240.00 per month rent and also has to pay utilities. There is one in the Assistance Group.
- 5) 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.
- 6) Chapter 10, Appendix C of the West Virginia Income Maintenance Manual shows that a one person AG with net adjusted income of \$473.80 receives \$10.00 a month in food stamps.
- 7) 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:

	<p>No One Elderly</p> <p>Or Disabled</p>	<p>At Least One Person Elderly or Disabled</p>
<p>Shelter/ Utility</p> <p>Equal To Or Less Than Step 9</p>	<p>No further computatio n is needed. The amount from Step 8 is the countable income.</p>	<p>No further computatio n is needed. The amount from Step 8 is the countable income.</p>
<p>Shelter/ Utility Greater Than Step 9.</p>	<p>The amount is excess of 50%, not to exceed the shelter/ utility cap, is deducted to arrive at countable income.</p>	<p>The amount in excess of 50% is deducted, without regard to the shelter/ utility cap, to arrive at countable income.</p>

Step 11: Compare the countable income to the maximum net income in Appendix
A for the benefit group size.

VIII. CONCLUSIONS OF LAW:

- 1) There is one in the food stamp AG.
- 2) The net adjusted household income is calculated as follows: $\$5.75 \times 40$ hours per week equals \$230 weekly. $\$230 \times 4.3$ equals \$989 monthly. The deductions are \$989 less 20% work deduction (\$197.80), less \$134 standard deduction, and shelter/utility deduction of \$183.40. Total deductions are \$515.20. The net adjusted income is \$473.80.
- 3) The monthly coupon allotment for an AG of one with net adjusted household income of \$473.80 is \$10.00.
- 4) The determination made by the Department is valid.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is upheld in the proposal to decrease the claimant's food stamps because the household income increased.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 6th Day of September, 2006.

**Margaret M. Mann
State Hearing Officer**