



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
200 Davis Street
Princeton, WV 24740

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 29, 2006

Dear Mr. _____

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 20, 2006. Your hearing request was based on the Department of Health and Human Resources' action to reduce your monthly Food Stamp coupon allotment, due to reported changes in your shelter and utility expense obligation.

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: Certain items may be allowed as income deductions to arrive at an AG's countable income. Note: when a client fails to report household expenses which would normally result in a deduction, the AG loses their entitlement to that deduction. (West Virginia Income Maintenance Manual Section 10.4 B) 24 Month redetermination – All FS AG's with a certification period of 24 months must have a redetermination completed by the end of the 24th month of eligibility. A telephone interview is required unless the client requests a face-to-face interview. When the DFA-FS-24 is received, the Worker schedules the interview based on the client's choice of interview methods. (West Virginia Income Maintenance Manual Section 2.2 B.4,b)

Information submitted at your hearing revealed that although you failed to accurately describe your shelter and utility obligation on your 24 Month redetermination form, the Department did not follow through and conduct a complete redetermination on your case. Testimony and evidence support the finding that although the Department processed your 24 Month redetermination form on July, 3, 2006, they failed to contact you and complete a telephone interview or schedule a face to face interview.

It is the decision of the State Hearing Officer to **reverse** the action of the Department to reduce your food stamp coupon allotment.

Sincerely,

Cheryl McKinney
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Murriel Hylton, DHHR

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

Claimant,

v.

Action Number: 06-BOR-2585

**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 20, 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 20, 2006 on a timely appeal filed July 11, 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
_____, Claimant's Landlord
Murriel Hylton, Income Maintenance Supervisor, DHHR

Presiding at the hearing was Cheryl McKinney, 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 reducing the monthly food stamp coupon allotment due to reported changes in shelter/utility obligations.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 10.4 B, and 2.2B, 4.b

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 IG-BR-40 notification letter dated 8-17-06 and letter dated 8-4-06
- D-2 Copy of IG-BR-29
- D-3 Copy of DFA-FH-1 request for hearing form dated 7-11-06
- D-4 Copy of FS decrease notification letter dated 7-5-06
- D-5 Copy of WV Income Maintenance Manual Policy Section 10.4
- D-6 Department's Summary
- D-7 Copy of Food Stamp 24 Month Review form dated 6-19-06 and Rapids screens

Claimant's Exhibits:

- C-1 Copy of purchase receipt from [REDACTED] dated February 6, 2006

VII. FINDINGS OF FACT:

- 1) The Department sent the Claimant a 24 Month Food Stamp Review form on 6-19-06. The form instructed the claimant to complete, sign and return the entire form to DHHR by July 3, 2006. The form also stated: In addition to completing this form, you are also required to complete an interview, either by phone or in person. Once you submit this form, you will be contacted regarding your interview. (D-7)

- 2) On Section 1, question 2 of the 24 Month Review form Claimant was asked to enter the amounts he was obligated to pay each month for rent, mortgage, lot rent, property tax, homeowner's insurance, etc. Claimant entered in this area that he was obligated to pay \$450.00 a month including utilities. He indicated he paid this amount himself. In the section for paying electric, gas, propane, fuel oil, sewer/water, or other he entered nothing. This form was signed on July 3, 2006. (D-7)
- 3) On July 3, 2006 the Income Maintenance caseworker contacted Claimant's Landlord to clarify the Claimant's rent/utility obligation. The caseworker made a recording on a Rapids calculation sheet to document this conversation. (D-7) The caseworker wrote: "Landlord stated over phone 7-3-06 rent of \$450.00 includes all utilities. I asked specifically if this included heating costs. Landlord stated yes." The caseworker initialed below the comments. Testimony from the Landlord during the hearing does not dispute this. The Landlord testified that she was going through a lot when the caseworker called. She testified she had a lot of company in her home that day, and had recently gone through surgery. She testified that she was confused and forgot to tell the worker that Claimant was required to help a couple times a year with purchasing heating oil. The Landlord also testified that Claimant was not home on July 3, 2006.
- 4) On July 3, 2006 the caseworker entered a recording on page five (5) of the 24 Month FS Review form (D-7) which states: entered in RAPIDS 7-3-06 – interview by phone. The worker signed below this statement. Claimant testified that he was not contacted after having the review form submitted on July 3, 2006. He testified that he was in [REDACTED] due to a death in the family. He stated the trip was unexpected, and he asked his Landlord to return the review form to the Department on his behalf. Claimant testified the Department never asked him about the shelter/utility information because he was not here.
- 5) Claimant testified that he is required to help with the heating oil costs. He provided a copy of a receipt from [REDACTED] Company that showed he paid \$694.50 on February 6, 2006 for 300 gallons of oil. (C-1)
- 6) The Department sent a letter to Claimant on 7-5-06 notifying him that his Food Stamp coupon allotment would decrease from \$141.00 to \$59.00 effective August 2006, due to the fact that his shelter and/or utility costs are less. (D-4)
- 7) West Virginia Income Maintenance Manual Section 10.4 B states in part:

Certain items may be allowed as income deductions to arrive at an AG's countable income. A deduction is allowed even if the payment is made from assets. The expense must be billed or be due during the certification period in which the deduction is claimed. The AG must make a money payment to an individual not included in the AG to receive a deduction. Note: When a client fails to report household expenses which would normally result in a deduction, the AG loses their entitlement to that deduction. They have a right to the expense, once it is reported and verified, if required by policy.

- 8) West Virginia Income Maintenance Manual Section 2.2 B.4.b states in part:

All FS AG's with a certification period of 24 months must have a redetermination completed by the end of the 24th month of eligibility. The redetermination differs from the 6 month redetermination as follows: **Form DFA-FS-24 is used and mailed to the AG, and **A telephone interview is required unless the client requests a face to face interview. When the DFA-FS-24 is received, the Worker schedules the interview. The redetermination is not complete until an interview has been conducted.

VIII. CONCLUSIONS OF LAW:

- 1) Claimant fulfilled his responsibility by providing the completed 24 Month Food Stamp Review form to the Department on July 3, 2006. The information he entered on the form regarding his rent/utility obligation suggested he did not pay an extra amount over and above this \$450.00 rent obligation.
- 2) Evidence and testimony support the finding that the Income Maintenance caseworker did contact the Landlord on July 3, 2006, and that the Landlord did give information to the Department during that conversation indicating that Claimant was not responsible for anything more than the \$450.00 rent obligation monthly.
- 3) Evidence provided by the Claimant shows that he is obligated to purchase fuel oil and has done so as recently as 2-6-06, in the amount of \$694.50. (C-1)
- 4) Evidence and testimony support the finding that the Income Maintenance caseworker did not speak with the claimant on July 3, 2006, and conduct a telephone interview, as was recorded on the review form. Evidence and first hand testimony support the finding that Claimant was not available to be interviewed either by phone or in person on July 3, 2006. The Income Maintenance caseworker did not testify and therefore the recorded information must be considered hearsay evidence.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the action of the Department to reduce the Claimant's food stamps from \$141.00 to \$59.00. The Department was obligated by policy to contact the Claimant after receipt of the 24 Month redetermination form and arrange either a telephone or face to face interview. Evidence and testimony support the finding that the Department failed to do so.

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.

**Cheryl McKinney
State Hearing Officer**