



**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

February 13, 2006

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 10, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to decrease your 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: The shelter/utility expense must be allowed only if the AG is obligated to pay, and the cost is paid with the resources of the AG. The deduction applies whether the expense is paid from excluded or non-excluded resources. There is no time period for deciding when a AG is no longer allowed a deduction for the bill. The AG is no longer allowed the deduction when the expense is no longer billed or is no longer due. (Section 10.4A #7 of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that at the time you submitted a review form for September, 2005, you were not paying utility expenses.

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  
Gayle Dillon, DHHR

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

\_\_\_\_\_,  
**Claimant,**

**v.**

**Action Number: 05-BOR-6636**

**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 January 10, 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 January 10, 2006 on a timely appeal, filed September 16, 2005. It should be noted that this hearing was originally scheduled for October 25, 2005. It was rescheduled to October 27, 2005 at the request of the State Hearing Officer. The hearing had to be rescheduled a second time to January 10, 2006 at the request of the State Hearing Officer.

It should be noted here that the claimant's benefits have been continued pending a hearing decision.

**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 food coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

### **III. PARTICIPANTS:**

\_\_\_\_\_, Claimant

Gayle Dillon, ESW, DHHR Customer Service Change Center (By Telephone)

Sandra Schrader, ESS, DHHR Customer Service Change Center (By Telephone)

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 was correct in the decision to decrease the claimant's food stamps because of a decrease in shelter/utility expenses.

### **V. APPLICABLE POLICY:**

Sections 10.4A #7 of the West Virginia Income Maintenance Manual  
7 CFR 273.9

### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

#### **Department's Exhibits:**

D-1 Notification Letter dated 09/14/05

### **VII. FINDINGS OF FACT:**

- 1) The claimant was sent a notice dated 09/14/05 informing him that his food stamps would decrease from \$63 to \$26 effective October, 2005. Reason: Your shelter and/or utility costs are less. (D-1)
- 2) Testimony at the hearing revealed the decrease was the result of an A & D 24-month review received August 31, 2005 and processed September 13, 2005. The claimant reported on the review that he had income from SSI of \$579 and he paid rent of \$250 with utilities included in the rent. At that point, the utility and SUA deduction was removed. Benefits were continued at the old amount. Since that time, the food stamp amount has been updated.
- 3) Testimony from Ms. Schrader revealed that she discussed the food stamp decrease with the claimant on 09/16/05. He again reported he just paid rent.
- 4) Testimony from the claimant confirmed he pays his mother \$250 a month for rent. He buys his own groceries with his food stamps. If his mom needs help he helps her out. He started helping his mother pay on the utilities in November, 2005 when bills started going up.

- 5) Section 10.4A #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. 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.

The expense must be allowed only if the AG is obligated to pay, and the cost is paid with the resources of the AG. The deduction applies whether the expense is paid from excluded or non-excluded resources. There is no time period for deciding when a AG is no longer allowed a deduction for the bill. The AG is no longer allowed the deduction when the expense is no longer billed or is no longer due.

#### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy is clear in that The AG is no longer allowed the shelter and/or utility deduction when the expense is no longer billed or is no longer due.
- 2) The claimant reported on his review form processed in September, 2005 that he paid rent with utilities included. He confirmed this later during a conversation with Ms. Schrader and during the hearing.
- 3) There was no convincing evidence or testimony received from the claimant that would change the Department's determination in September, 2005.

#### **IX. DECISION:**

It is the finding of the State Hearing Officer that the Department is upheld in the proposal outlined in the notification letter dated September 14, 2005 to decrease the claimant's food stamps. The action described in the notification letter will be taken. It should be noted that if the claimant's expenses have changed, he needs to report this information to the Department.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 13th Day of February, 2006.**

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**Margaret M. Mann  
State Hearing Officer**