



**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**

May 8, 2006

Dear Ms. ____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 28, 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 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 granddaughter has left the home. 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
Sharon Newman, DHHR

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

____,

Claimant,

v.

Action Number: 05-BOR-7140

**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 March 28, 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 March 28, 2006 on a timely appeal, filed December 8, 2005. It should be noted that this hearing was originally scheduled for January 25, 2006. It was rescheduled because of inclement weather to February 24, 2006. The claimant then requested the hearing be rescheduled from February 24, 2006. The hearing was then scheduled for March 28, 2006.

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

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
Sharon Newman, 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 composition decreased.

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 Department's Summary
- D-2 DFS-FH-1 (Fair Hearing and Conference Request Form) dated 12/06/05
- D-3 Form IG-BR-29 Hearing/Grievance Record Information
- D-4 Hearing Appointment Notice dated 12/30/05
- D-5 Copy of DFA-LIEAP-1 dated 11/08/05
- D-6 Copy of notification letter dated 12/01/05
- D-7 Case Comments
- D-8 Chapter 2.2 of the West Virginia Income Maintenance Manual
- D-9 Chapter 9.1 of the West Virginia Income Maintenance Manual
- D-10 Chapter 10.4 of the West Virginia Income Maintenance Manual

Claimant's Exhibit:

- C-1 List of Expenses

VII. FINDINGS OF FACT:

- 1) The claimant was in the office on 11/08/05 to apply for regular LIEAP benefits. The claimant and adult son live together. ____ is the primary person in the case and the LIEAP payment was mailed to him at ____, [REDACTED] WV 25921. (D-5) The claimant's granddaughter, ____, was not listed on the LIEAP application. She was then removed from the food stamp case.

- 2) A letter was sent to ____ on 12/01/05. It reads in part that your food stamps will decrease from \$79.00 to \$10.00 effective 01/01/06. Reason: The number of people receiving this benefit has decreased. (D-6) The claimant requested a hearing on 12/08/05. (D-2)
- 3) The gross unearned income counted for food stamps was \$1198.00. The net adjusted income was \$1064.00. Food Stamp allotment for an AG of two is \$10.00. (D-6)
- 4) The claimant confirmed there are two in the household and the household income is \$1198.00.
- 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 two person AG with net adjusted income of \$1064.00 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 are two in the food stamp AG.
- 2) The adjusted household income is \$1064.
- 3) The monthly coupon allotment for an AG of two with net adjusted household income of \$1064 is \$10.00.

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 composition decreased. The action described in the notification letter dated December 1, 2005 will be taken.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of May, 2006.

**Margaret M. Mann
State Hearing Officer**