



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 6165
Wheeling, WV 26003

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 30, 2006

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 18, 2006. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your Food Stamp benefits based on an increase in your income.

In arriving at a decision, the State Hearings 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 and benefit levels for the Food Stamp Program are based on current policy and regulations. Some of these regulations state: Eligibility for Food Stamp benefits and the amount of the Food Stamp allotment are based on a determination of countable household income (that income remaining after all appropriate disregards and deductions are applied) and the number of individuals in the Food Stamp benefit group. (West Virginia Income Maintenance Manual ' 10.4 and 7 CFR 273.10(e) - Code of Federal Regulations)

The information submitted at your hearing reveals that the Department has correctly proposed that your Food Stamp benefits be reduced from \$152 per month to \$40 per month effective February 1, 2006, based on an increase in income.

It is the decision of the State Hearings Officer to **uphold** the proposal of the Department to reduce your Food Stamp benefits from \$152 per month to \$40 per month effective February 1, 2006.

Sincerely,

Melissa Hastings
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Michele Robinson, ESW, DHHR

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

_____,

Claimant,

v.

Action Number: 06-BOR-775

**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 May 18, 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 May 18, 2006 on a timely appeal, filed January 3, 2006. Note: This hearing was originally scheduled for April 12, 2006 but was rescheduled at claimant's request.

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

II. PROGRAM PURPOSE:

The Program entitled Food Stamp Program 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
Michele Robinson, ESW, DHHR

Presiding at the Hearing was Melissa Hastings, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether the Department is correct in their proposal to reduce the Claimant's Food Stamp benefits based on an increase in income (SSI).

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual ' 10.4 and Appendix B & C.
7 CFR ' 273.9 & 7 CFR ' 273.10 - Code of Federal Regulations

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 WV State Online Query SSI Information Response (Screen 1 through 6)
- D-2 West Virginia Income Maintenance Manual section 10.3
- D-3 Notice of Decision dated 12/29/05 issued to claimant with Food Stamp income calculations

VII. FINDINGS OF FACT:

- 1) The Claimant was notified via a Notice of Decision (Exhibit D-3) that her Food Stamp benefits were going to decrease from \$152 per month to \$40 per month effective February 1, 2006 due to an increase income.
- 2) WV State Online Query SSI Information Response (D1) indicates claimant was approved for SSI benefits in August 2005. The current SSI amount is \$579. This was also confirmed by claimant.
- 3) Testimony of ES worker Robinson revealed that claimant was receiving Food Stamp benefits based on no income while pending approval of SSI.
- 4) WV Income Maintenance Manual section 10.3 (D) indicates that SSI income is to be considered unearned income for the Food Stamp Program.

5) WV Income Maintenance Manual, Chapter 10.4 contains policy regarding income disregards and deductions and computation of and eligibility for Food Stamp benefits. These regulations were used in arriving at a net Food Stamp income of \$372.11 for the claimant.

6) WV Income Maintenance Manual, Chapter 10, Appendix C contains a basis of issuance chart used to determine the amount of Food Stamps a household will receive based on the household's net income. The chart shows that a Food Stamp net income of \$372.11 for a one person household is entitled to \$40 per month in Food Stamps.

7) Claimant states that expenses are extremely high and she is required to be on a special diet. She provided no evidence of these expenses but was advised to apprise Economic Services of these expenses for future consideration.

VIII. CONCLUSIONS OF LAW:

- 1) Upon review of SSI Information Response for Ms. _____ the department discovered that claimant was receiving SSI in the amount of \$579 per month and properly reevaluated claimant's eligibility based on guidelines found in WV Income Maintenance Manual 10.4.
- 2) Benefit levels for the Food Stamp Program are based on the countable household income and the number of persons in the household. Evidence indicates that the household's net adjusted income was correctly calculated at \$372.11 which entitles the household to \$40 in benefits.
- 3) Claimant was properly notified of the proposed action to reduce her benefits based on this change income.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to reduce your Food Stamp benefits from \$152 to \$40 per month effective February 1, 2006.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 30th Day of May, 2006.

Melissa Hastings
State Hearing Officer