



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

April 16, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 12, 2007. Your hearing request was based on the Department of Health and Human Resources' determination of your Food Stamp eligibility date / prorated amount for March 2007.

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 that the date of application is the date the applicant submits an OFS-2, in person or by mail which contains, at a minimum, his name and address and signature. A Food Stamp redetermination is a reapplication for benefits. Under no circumstances are benefits continued past the month of redetermination, unless a redetermination is completed and the client is found eligible. When the AG's Food Stamp benefits are closed at the end of the certification period and benefits have been interrupted, benefits are prorated from the date the AG reapplies and verifies eligibility. {WV Income Maintenance Manual § 1.4}

The information submitted at your hearing reveals the Department provided you with a written request to provide earned income received in the 30-day period preceding your February 27, 2007 application/redetermination. Because the information required to determine eligibility was not received until March 26, 2007, the Department was correct to prorate your Food Stamp benefits for the month of March 2007 from that date.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in prorating your Food Stamps from March 26, 2007 - the date your Food Stamp eligibility was verified.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Seldenia Harris, ESW, DHHR
[REDACTED] Paralegal, Legal Aid of WV

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

_____,

Claimant,

v.

Action Number: 07-BOR-1028

**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 April 16, 2007 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 April 12, 2007 on a timely appeal, filed March 30, 2007.

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
_____, Paralegal, Legal Aid of WV
Selden Harris, ESW, DHHR

Presiding at the Hearing was Thomas E. Arnett, 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 its determination that the Claimant's Food Stamp eligibility date resulting from a February 27, 2007 application/redetermination is March 26, 2007.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual ' 1.4
7 CFR ' 273.2 - Code of Federal Regulations

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department's Hearing Summary
- D-2 IG-BR-29 – Hearing Record/Grievance Record Information
- D-3 Notice of Decision dated 3/29/07
- D-4 West Virginia Income Maintenance Manual, Chapter 1.4
- D-5 Manual Food Stamp Computation Form
- D-6 No exhibit was entered under D-6
- D-7 Request for verification of income for last 30 days (1/29/07 – 2/27/07).
- D-7a Earned Income verification received on 3/13/07 (includes payroll date 2/16/07 & 3/2/07)
- D-7b Earned income verification received 3/26/07 (includes payroll date 2/2/07 & 2/16/07)
- D-8 Case Comments from 2/27/07 through 3/30/07

Claimant's Exhibit:

- C-1 Notice of Decision dated 3/16/07

VII. FINDINGS OF FACT:

- 1) The Claimant was an active recipient of Food Stamp benefits and completed a redetermination/application for continued eligibility on February 27, 2007. The Department contends that the Combined Application and Review Form (CAF) was completed at the time of the interview and that the Claimant was provided written notice (Exhibit D-7) of additional verification needed to establish eligibility.
- 2) The Department submitted Exhibit D-7b to show that the Claimant did not provide the requested income verification until March 26, 2007.
- 3) On or about March 29, 2007, the Claimant was notified via a Notice of Decision (D-3) that her Food Stamp application was APPROVED effective March 26, 2007. This notice states – “Your benefit for 3/26/07 through 3/31/07 will be \$37.00.” This notice goes on to say “You will receive another notice about your eligibility for ongoing benefits.”

- 4) ESW Harris submitted Exhibit D-7 to verify that the Claimant was provided written notice advising her that she needed to provide verification of her income by 3/9/07. This notice (Exhibit D-7) is dated 2/27/07 and states - "Verification of income for last 30 days" 1/29/07 – 2/27/07 (inclusive dates were handwritten). Case Comments (Exhibit D-8) documented on 2/27/07 also state – "ES-6 for verification of income for last 30 days."
- 5) The Claimant is contesting her Food Stamp benefits being prorated from the date eligibility was determined by the Department (March 26, 2007, see Exhibit D-3), and contends that her Food Stamp benefits should have been prorated from March 13, 2006 - when she provided verification of her income (Exhibit D-7a). The Claimant purported that ESW Harris did not provide her a written copy of the requested income verification (Exhibit D-7) and alleged that ESW Harris did not leave the interviewing room (that does not have a printer) the entire time and therefore could not have printed and provided her a copy of Exhibit D-7. The Claimant acknowledged being aware that she needed to provide verification of her income and thought she had provided necessary documentation (Exhibit D-7a) on March 13, 2007. The Claimant testified that the only correspondence she received was the Notice of Decision dated 3/16/07 indicating her application had been denied (Exhibit C-1).
- 6) ESW Harris testified that it is not possible for her to complete an application for benefits without leaving the interviewing room and retrieving documents that she printed because an application is not complete until the Combined Application and Review Form (CAF), which must be retrieved from the printer, is signed. The Claimant's Food Stamp benefits were approved and prorated effective March 26, 2007 because that is when she received the income verification (Exhibit D-7b) requested on 2/27/07 and eligibility was established.
- 7) WV Income Maintenance Manual § 1.4, C - states that the date of application is the date the applicant submits an OFS-2, in person or by mail which contains, at a minimum, his name and address and signature. When the application is submitted by mail, the date of application is the date that the form with the name, address and signature is received in the local office.
- 8) WV Income Maintenance Manual § 1.4, S, 4 - states that clients who reapply in a timely manner, complete the interview and provide requested verification within the Worker's deadline must receive uninterrupted benefits or have lost benefits restored if the Department's delays cause benefits to be interrupted. Uninterrupted benefits means benefits are received within 30 days of the last issuance. Individuals who fail to reapply timely, fail to complete an interview or fail to submit missing verification by the established deadline lose the right to uninterrupted benefits.

A Food Stamp redetermination is a reapplication for benefits. Under no circumstances are benefits continued past the month of redetermination, unless a redetermination is completed and the client is found eligible. When the AG's Food Stamp benefits are closed at the end of the certification period and benefits have been interrupted, benefits are prorated from the date the AG reapplies and verifies eligibility [emphasis added].

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that a Food Stamp redetermination is a reapplication for benefits. Under no circumstances are benefits continued past the month of redetermination, unless a redetermination is completed and the client is found eligible. Individuals who fail to reapply timely, fail to complete an interview or fail to submit missing verification by the established deadline lose the right to uninterrupted benefits. When the AG's Food Stamp benefits are closed at the end of the certification period and benefits have been interrupted, benefits are prorated from the date the AG reapplies and verifies eligibility.
- 2) When reviewing the facts of this case, the Claimant acknowledged that she failed to return income verification before the 3/9/07 deadline and agreed that her Food Stamp benefits should be prorated. This fact confirms that the Claimant was aware of the 3/9/07 deadline provided by the Department in the written request for verification. While the Claimant contends that the Worker did not leave the interviewing booth to retrieve any printing, this claim is inconsistent with credible testimony presented by the Department and supporting documentary evidence.
- 3) Based on the preponderance evidence, I am convinced that the Claimant was provided written notice of the verification request when she was interviewed on February 27, 2007. Because the information requested was not received/verified until March 26, 2007, Food Stamp benefits were correctly prorated from that date.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department to prorate that Claimant's Food Stamp benefits effective March 26, 2007 - the date eligibility was verified.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 16th Day of April, 2007.

Thomas E. Arnett
State Hearing Officer