



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

December 7, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 30, 2007. Your hearing request was based on the Department of Health and Human Resources' action to reduce 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: When no Assistance Group member is elderly or disabled, the gross income must be equal to or less than the gross income limit listed in Chapter 10, Appendix A (130% of the Federal Poverty Level) for the Assistance Group size to qualify for Food Stamps. (West Virginia Income Maintenance Manual Section 10.4)

Based on information submitted at your hearing, the Department calculated your Food Stamp allotment correctly.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to reduce your Food Stamp benefits.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Vicki Cawthon, FSS, DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-2451

**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 December 7, 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 November 30, 2007 on a timely appeal filed November 15, 2007.

It should be noted that benefits have not been continued pending the results of the hearing.

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
Vicki Cawthon, Family Support Supervisor, DHHR

Jennifer Butcher, State Hearing Officer (observing)
Todd Thornton, State Hearing Officer (observing)

Presiding at the hearing was Pamela L. Hinzman, 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 to reduce the Claimant's Food Stamp benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapters 9.1, 10.3 and 10, Appendix C

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Notice of Decision dated October 19, 2007

D-2 West Virginia Income Maintenance Manual Sections 9.1 and 10.3

VII. FINDINGS OF FACT:

1) On October 16, 2007, the Claimant reported that her son, _____, had moved into her residence. The Claimant's son receives Social Security and Supplemental Security Income (SSI) totaling \$623 per month. The Family Support Supervisor testified that _____ was added into the Food Stamp case as he is less than 22 years old and living with a parent.

2) The Department sent a Notice of Decision (D-1) to the Claimant on October 19, 2007, which states:

ACTION: Your Food Stamps will decrease from \$578 to \$438 effective 11/01/07.

REASON: Your income has increased.

3) On November 15, 2007, the _____ County DHHR received a Fair Hearing Request from the Claimant regarding the decrease in benefits.

- 4) The Claimant testified that she had not been receiving _____'s income when he moved into her household because the boy's payee was handling the money. The FSS pointed out the income was accessible to _____ even though someone else was handling it for him. The Claimant is now her son's payee.
- 5) Total household income is \$1,460 and there are six individuals in the Claimant's Assistance Group. Exhibit D-2 indicates that net adjusted income for the household is \$1,113.50.
- 6) West Virginia Income Maintenance Manual Section 9.1 A, 2, (D-2) states that natural or adopted children who are under age 22 and living with a parent must be in the same Food Stamp Assistance Group as that parent.
- 7) West Virginia Income Maintenance Manual Section 10.3 (D-2) states that both Social Security and SSI are counted as unearned income for the Food Stamp Program. The amount of the client's entitlement should be counted.
- 8) West Virginia Income Maintenance Manual Chapter 10, Appendix C reveals that the Food Stamp allotment for a six-person Assistance Group with a net countable income of \$1,113.50 is \$438 per month.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that a natural or adopted child under age 22 living with a parent must be included in the parent's Food Stamp benefit group. Policy also dictates that Social Security and SSI are countable unearned income sources for the Food Stamp Program and that the amount of the client's entitlement should be counted.
- 2) While the Claimant did not directly receive certain income for her son after he moved into her home, the income was accessible to him and the amount of the entitlement must be counted.
- 3) Policy states that the correct Food Stamp allotment for a six-person Assistance Group with a net countable income of \$1,113.50 is \$438 per month. Therefore, the Department correctly calculated the Claimant's Food Stamp allotment upon adding her son to her case.
- 4) The Department acted correctly in reducing the Claimant's Food Stamp allotment.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department to reduce the Claimant's Food Stamp benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 7th Day of December, 2007.

Pamela L. Hinzman
State Hearing Officer