



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 970
Danville, WV 25053

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 1, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 20, 2007. Your hearing request was based on the Department of Health and Human Resources' action to approve your case in the amount of \$10.00 monthly Food Stamp benefit allotment.

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 correctly calculated your countable household income and deductions when your monthly Food Stamp benefit amount of \$10.00 was initially determined on December 22, 2007.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to approve your food stamp application in the amount of \$10.00 monthly benefits.

Sincerely,

Cheryl McKinney
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Katherine Lawrence, [REDACTED] DHHR

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

_____,

Claimant,

v.

Action Number: 07-BOR-570

**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 20, 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 March 20, 2007 on a timely appeal, filed January 11, 2007. It should be noted the hearing was originally scheduled on February 13, 2007, but was continued at the request of the claimant.

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

Claimant's attorney

Katherine Lawrence, DHHR

Presiding at the Hearing was Cheryl McKinney, 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 proposal to approve the Claimant's Food Stamp benefits in the amount of \$10.00 monthly.

V. APPLICABLE POLICY:

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

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Summary
- D-2 Hearing Notice dated January 17, 2007
- D-3 Copy of Application form (CAF) dated December 22, 2006
- D-4 Copy of Rights and Responsibilities and Screening form dated December 22, 2006
- D-5 Copy of Notification letter dated December 26, 2006
- D-6 Copy of letter from Attorney dated January 11, 2007
- D-7 Copy of IGBR29
- D-8 Copy of Chapter 10, Appendix C
- D-9 Copy of Case Comments in Rapids dated December 22, 2006 and January 12, 2007

Claimant's Exhibits:

- C-1 Copy of various household maintenance bills

VII. FINDINGS OF FACT:

- 1) The Claimant applied for Food Stamp benefits (D-3) on December 22, 2006, reporting that she lived with her brother, but purchased and prepared her meals separately. The Department verified Claimant's income as Social Security benefits in the amount of \$708.00, and

determined her case would consist of a one (1) person household for food stamp purposes. The Department discussed and gathered information about the Claimant's household expenses, which totaled \$297.35. The Claimant elected to use the Standard Utility Allowance amount of \$287.00. The Department determined that the Claimant was not eligible for a Shelter/Utility deduction in either instance.

- 2) The Claimant testified and provided supporting documents that she is responsible for paying household maintenance and repair bills. These bills were not used in determining shelter expenses. The Claimant's total household income was calculated as \$708.00. She was given the Standard Deduction of \$134.00. She elected to use the Standard Utility Allowance of \$287.00. Her adjusted income was found to be \$287.00 and was subtracted from her shelter and utility expense of \$287.00, leaving a balance of \$0.00 for her Shelter/Utility Deduction.
- 3) The following allowable calculations were used in determining eligibility and benefit amount for the purpose of this hearing decision:

Claimant's verified monthly household income RSDI \$708.00

708.00	Unearned income
- 134.00	Standard deduction
- 0.00	Verified Child Support deduction
- 0.00	Medical deduction (in excess of \$35) – no deduction given
<u>\$ 574.00</u>	Adjusted income

Shelter cost:	\$ 00.00
Utility cost:	<u>\$287.00</u>
Total:	\$287.00
Less 1/2 Adj income:	<u>-\$287.00</u>
Shelter/Util Deduction:	\$ 0.00

\$574.00	Adjusted Income
- 0.00	Shelter/Util. Deduction
<u>\$574.00</u>	Monthly Countable Income

- 4) WV Income Maintenance Manual, Chapter 10.4 contains policy regarding income disregards and deductions, and to computation of and eligibility for Food Stamp benefits. This policy states the cost of repairing a home damaged or destroyed due to a natural disaster such as a fire or flood is deductible as a shelter expense under certain circumstances. No other allowance for home repairs is listed. It also states: To determine the coupon allotment, find the countable monthly income and number in the benefit group.
- 5) Pursuant to Chapter 10.4, Appendix C of the WV Income Maintenance Manual, Food Stamp Program Basis of Issuance (revised October 1, 2006), an Assistance Group of one (1) with a monthly countable income of \$574.00 is entitled to receive \$10 of Food Stamp benefits per month.

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant is not eligible for a shelter deduction for her household maintenance and repair expenses. Chapter 10.4 allows repair costs only in the event the home is damaged or destroyed due to a natural disaster such as a fire or flood when they are not reimbursed through insurance or another private agency.
- 2) The Department correctly evaluated and calculated the Claimant's income and deductions, and correctly determined her eligible for \$10.00 monthly food stamps based on her circumstances at the time of application.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to approve your Food Stamp Application in the amount of \$10.00 monthly allotment.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 1st Day of May 2007.

**Cheryl McKinney
State Hearing Officer**