



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
Post Office Box 1736  
Romney, WV 26757

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

April 24, 2007

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear Mr. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 13, 2007. Your hearing request was based on the Department of Health and Human Resources' decision to decrease your Food Stamp benefits due to increase in 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 for the Food Stamp program is based on current policy and regulations. Some of these regulations state as follows: To determine the coupon allotment, find the countable income and the number in the assistance group.

The information, which was submitted at your hearing, revealed that the Department followed policy in applying your increased income and their decision to decrease your Food Stamp benefits was correct.

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

Sincerely,

Sharon K. Yoho  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Merrifield, DHHR

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 07-BOR-800**

**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 13, 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 13, 2007 on a timely appeal, filed February 16, 2007.

**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  
Jonathan Merrifield, DHHR, Income Maintenance Worker  
Stephanie Smith, Income Maintenance Supervisor

Presiding at the Hearing was Sharon K. Yoho, 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 was correct in their actions to decrease your Food Stamp benefits.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Policy § 10.4, 2.22 .9, and 2 Appendix B

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

- D-1 Social Security online income verification
- D-2 Food Stamp calculations with old Social Security Income
- D-3 Food Stamp calculations with new Social Security Income
- D-4 WV Income Maintenance Manual 2.2
- D-5 WV Income Maintenance Manual 2, Appendix B
- D-6 Notification letter of decrease dated January 29, 2007
- D-7 West Virginia Income Maintenance Manual, chapter 10.
- D-8 Food Stamp Calculation Form showing step by step calculations
- D-9 Case Comments dated February 16, 2007

**VII. FINDINGS OF FACT:**

- 1) The claimant was an active recipient of the Food Stamp program in January 2007 when his Social Security income received a cost of living increase.
- 2) The claimant's Food Stamps in January were based on Social Security income of \$597. and his adjusted income after deductions was \$374. His Food Stamp allotment was \$42.
- 3) A cost of living increase occurred in January, which increased the claimant's Social Security income to \$617. This \$20. increase caused his Food Stamps to decrease by \$9. The Department sent the claimant a notification letter on January 29, 2007 advising him that his Food Stamps would decrease effective March 1, 2007 to \$33.
- 4) The claimant testified regarding his concerns of how the Department expected him to buy the food he needs for one month with \$33. in Food Stamps. He voiced his concerns regarding all of his other expenses, including gasoline and cost of eyeglasses and dental care that his Medicaid & Medicare cards did not cover. He advised that he had not been paying out an excess of \$35. in medical expenses, which could be deducted for Food Stamp, purposes.

- 5) The caseworker advised him that he could provide him with names of locations where he could check about receiving eye and dental care and a reduced cost or free.

6) **West Virginia Income Maintenance Manual § 10.4**

Determining Eligibility

- When at least one AG member is elderly, which is at least age 60, or disabled, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A.

Determining The Amount Of The Benefit

- To determine the coupon allotment, find the countable income and the number in the AG in Appendix C.

7) **West Virginia Income Maintenance Manual § 2 Appendix B**

A. The RSDI/SSI COLA UPDATE PROCESS

The annual Cost of Living (COLA) Mass Change will occur on 1/26/07 for most Assistance Groups (AGs) in RAPIDS that have RSDI and/or SSI entered.

8) **West Virginia Income Maintenance Manual § 2.2**

9. Cost-Of-Living Increases in Federal Benefits

Recipients of federal benefits such as RSDI, SSI, Black Lung or VA Benefits may receive periodic cost-of-living increases. Increases are handled in accordance with instructions in Appendix B of this Chapter.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy is clear in Chapter 10.4 that the determination of the amount of Food Stamp benefits is based on countable income. Policy Chapter 2 provides that the Cost of Living increase in Social Security income is considered when determining the amount of the Food Stamp allotment.
- 2) Exhibit D-3 clearly shows that the Department entered the correct information in the computer system to determine accurate benefits.
- 3) Exhibit D-8 clearly shows that the Department computed the correct Food Stamp amount based on the claimant's new income amount.
- 4) Evidence and testimony supports the decision, which the Department made to decrease this claimant's benefits to \$33.

**IX. DECISION:**

I rule to **uphold** the Department in its action to decrease the claimant's Food Stamp benefits effective with the month of March 2007.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 24th Day of April 2007.**

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**Sharon K. Yoho**  
**State Hearing Officer**