



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

April 25, 2008

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

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

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 24, 2008. Your hearing request was based on the Department of Health and Human Resources' proposal 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 at least one assistance group member is elderly or disabled as specified in Section 12.15, B, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. To determine the coupon allotment, find the countable income and the number in the assistance group in Appendix C. (West Virginia Income Maintenance Manual Chapter 10.4)

Based on information submitted at the hearing, the Department's proposal to reduce your Food Stamp allotment is correct.

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

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review  
Stephanie Rizzio, ESS, DHHR

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

\_\_\_\_\_,  
**Claimant,**

**v.**

**Action Number: 08-BOR-1102**

**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 25, 2008 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 24, 2008 on a timely appeal filed March 25, 2008.

It should be noted that benefits have 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  
Stephanie Rizzio, Economic Service Supervisor, DHHR

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's proposal to reduce the Claimant's Food Stamp benefits is correct.

### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual Chapters 10.3, 10.4, 10-Appendix B, and 10-Appendix C

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

#### **Department's Exhibits:**

- D-1 West Virginia Income Maintenance Manual Chapter 10.4
- D-2 Notice of Decision dated March 15, 2008
- D-3 Informational letter dated March 3, 2008
- D-4 Food Stamp Allotment Determination

### **VII. FINDINGS OF FACT:**

- 1) In March 2008, the Department implemented a policy that changed the amount of the Standard Utility Allowance (SUA) deduction for the Food Stamp Program. These changes are explained in an informational letter (D-3) sent to the Claimant on March 3, 2008.
- 2) As a result of the policy change, the Claimant's Food Stamp allotment decreased from \$81 to \$36 effective April 1, 2008. The Department sent the Claimant a Notice of Decision (D-2) on March 15, 2008 informing him of the proposed Food Stamp reduction.
- 3) The Economic Service Supervisor testified that the Department was permitted to consider the Claimant's actual monthly utility costs of \$517.25 prior to the policy change, but actual utility expenses can no longer be counted under policy. The Claimant is now eligible for the Heating/Cooling Standard (HCS) of \$366 because he must pay for heating costs.

- 4) The Claimant, who is disabled, testified that his only income is \$657 per month in Social Security and Supplemental Security Income (SSI) benefits. The Claimant testified that he understands the decrease was the result of a policy change, but stated that Food Stamps are his primary resource for food purchases and that the reduction presents a hardship.
- 5) West Virginia Income Maintenance Manual Chapter 10.4, C, 1 states:

When at least one AG member is elderly or disabled as specified in Section 12.15, B, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. There is no gross income test.
- 6) West Virginia Income Maintenance Manual Chapter 10.4, B lists allowable income deductions for the Food Stamp Program. These deductions include a 20 percent earned income deduction, a standard deduction, a dependent care deduction, a deduction for child support paid, the homeless shelter standard deduction, a deduction for medical expenses in excess of \$35 per month (only for persons disabled or over age 60), and a shelter/utility deduction.
- 7) West Virginia Income Maintenance Manual Chapter 10.3, MMM and 10.3, VVV state that Social Security and SSI payments are counted as unearned income for the Food Stamp Program.
- 8) West Virginia Income Maintenance Manual Chapter 10.4, C states:

## **2. Determining Countable Income**

The following steps are used to determine countable income for cases meeting the eligibility tests in item 1 above.

Step 1: Combine monthly gross non-excluded earnings and monthly gross profit from self-employment.

Step 2: Deduct 20% of Step 1.

Step 3: Add the gross non-excluded unearned income, including the WV WORKS benefit and any amount reduced or being repaid to the WV WORKS due to failure to comply with a program requirement. See Section 10.4, D.

Step 4: Subtract the Standard Deduction found in Appendix B. (*Currently \$134*)

Step 5: Subtract the Dependent Care Deduction up to the maximums found in Appendix B.

Step 6: Subtract the amount of legally obligated child support actually paid.

Step 7: Subtract the Homeless Shelter Standard Deduction found in Appendix B.

Step 8: Subtract allowable medical expenses in excess of \$35.

Step 9: Calculate 50% of the remaining income and compare it to the actual monthly shelter/SUA amount.

Step 10:

No One Elderly or Disabled		At Least One Person Elderly or Disabled
Shelter/SUA Equal To Or Less Than Step 9.	No further computation is needed. The amount from Step 8 is the countable income.	No further computation is needed. The amount from Step 8 is the countable income.
Shelter/ SUA Greater Than Step 9.	The amount in excess of 50%, not to exceed the shelter/ utility cap, in Appendix B is deducted to arrive at countable income.	The amount in excess of 50% is deducted, without regard to the shelter/ utility cap, in Appendix B to arrive at countable income.

Step 11: Compare the countable income to the maximum net income in Appendix A for the AG size. This net income test does not apply to Categorically Eligible AGs.

### **3. Determining The Amount Of The Benefit**

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

- 9) West Virginia Income Maintenance Manual Chapter 10.4, 7, b (D-1) states:

The Standard Utility Allowances are fixed deductions which are adjusted yearly to allow for fluctuations in utility costs. These deductions are the Heating/Cooling Standard (HCS), the Non-Heating/Cooling Standard (NHCS), and the One Utility Standard (OUS). The current SUA amounts are found in Appendix B. AGs that are obligated to pay from their own resources a utility

expense that is billed separately from their shelter costs are eligible for an SUA deduction. AGs which are not obligated to pay any utility cost are ineligible for the SUA, regardless of utility expenses paid by others in the residence.

Appendix B indicates that the Standard Utility Allowance (Heating/Cooling Standard) is \$366.

- 10) West Virginia Income Maintenance Manual Section 10, Appendix C lists Food Stamp allotments based on income and the number of individuals in the assistance group.

### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy states that Social Security and SSI are counted as unearned income for the Food Stamp Program. To determine the coupon allotment, countable income (after all allowable deductions) is compared to Chapter 10, Appendix C for the number of individuals in the assistance group.
- 2) The Claimant's income totals \$657 per month and he is eligible for the following income deductions: \$134 standard deduction; and shelter/utility deduction of \$104.50. The shelter/utility deduction is computed by comparing one-half of the Claimant's remaining income ( $\$657 - \$134 = \$523 / 2 = \$261.50$ ) and comparing it to the shelter/utility amount (zero shelter costs + \$366 Standard Utility Allowance = \$366). Since one-half of the remaining income (\$261.50) is lower than the Claimant's shelter/utility costs, the \$261.50 is subtracted from \$366. The result is a \$104.50 shelter/utility deduction. The full remaining income, \$523 - \$104.50 (shelter/utility deduction) results in \$418.50 net adjusted (countable) income.
- 3) Policy in Section 10, Appendix C indicates that a one-person assistance group with countable income of \$418.50 is entitled to \$36 in Food Stamps.
- 4) The Department's proposal to decrease the Claimant's Food Stamp allotment is correct.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the proposal 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 25th Day of April 2008.**

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**Pamela L. Hinzman  
State Hearing Officer**