



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

May 27, 2008

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 15, 2008. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your Food Stamp 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 for the Food Stamp program is based on current policy and regulations. Some of these regulations state as follows: To determine an individual's coupon allotment, the countable net income is multiplied by 30%. This amount is subtracted from the maximum monthly benefit amount for the Assistance Group size (West Virginia Income Maintenance Manual § 10.4 C).

The information which was submitted at your hearing revealed that your shelter and utility costs are less at your new residence than at your previous residence therefore causing a decrease in your Food Stamp allotment.

It is the decision of the State Hearings Officer to **uphold** the decision of the Department to reduce your Food Stamp allotment.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

Cc: Erika Young, Chairman, Board of Review
Murriel Hylton, Economic Service Supervisor

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

_____,
Claimant,

v.

Action Number: 08-BOR-1299

**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 May 15, 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 May 15, 2008 on a timely appeal, filed March 3, 2008.

It should be noted here that the claimant's benefits have been continued pending a hearing decision.

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
Murriel Hylton, Economic Service Worker

Presiding at the Hearing was Kristi Logan, 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 decision to reduce Claimant's Food Stamp allotment was correct.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 2.2, 10.4 and Appendix 10 A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Form IG-BR-29
- D-2 Hearing Request received March 3, 2008
- D-3 Notification Letter dated February 28, 2008
- D-4 West Virginia Income Maintenance Manual § 10.4 and 9.1
- D-5 Department's Hearing Summary

Claimants' Exhibits:

- C-1 Award Letter from Social Security Administration Effective March 2008 and Award Letter from Division of Veterans Affairs dated January 31, 2008
- C-2 Rent Receipt dated May 1, 2008

VII. FINDINGS OF FACT:

- 1) Claimant accompanied his roommate to her review on February 27, 2008. Claimant and his roommate reported to the Department that they split the rent of \$410 monthly which includes all utilities but phone. Claimant's roommate reported she paid the phone bill. These changes were also made to Claimant's separate Food Stamp case (D-5). A notification letter dated February 28, 2008 was issued and read in part (D-3):

Your Food Stamps will decrease from \$144 to \$7 effective April 2008. Your shelter and/or utility costs are less.

- 2) Claimant testified that he and his roommate moved from _____ in _____ WV to _____ in _____ WV in January 2008. The rent at his previous residence was \$450 monthly with utilities billed separately. Claimant stated he paid the rent and utilities entirely. His current rent cost is \$205 monthly (\$410 divided by 2) and

pays \$14.99 monthly for his cell phone. He pays \$39.99 for satellite television and a car payment of \$248.90. Claimant denied any other obligations.

Claimant receives Supplemental Security Income (SSI) of \$478 monthly and \$159 monthly Veterans pension (C-1). Claimant denied any other income.

3) West Virginia Income Maintenance Manual § 2.2 B states:

Regardless of the Assistance Group's (AG) reporting requirements, all changes reported directly by an AG member, the AG's authorized representative and/or authorized EBT cardholder, or from a source that is listed as verified upon receipt below must be acted on, even if the AG is not required to report the information.

4) West Virginia Income Maintenance Manual § 10.4 B(7)b states:

AGs that are obligated to pay from their own resources a utility expense that is billed separately from their shelter costs are eligible for a Standard Utility Allowance (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.

Items which are considered utilities include, but are not limited to:

- Water, including well installation and maintenance
- LP or natural gas
- Wood, wood pellets, coal and heating oil
- Electricity
- Sewage, including septic tank system installation and maintenance
- Garbage collection
- The basic rate for one telephone either land-line or cellular service, but not both. Basic rate charges include, but are not limited to, taxes, wire maintenance fees, subscriber line charges, relay center surcharges and 911 fees. It does not include extra services such as touchtone services, call-waiting, caller ID, etc.

5) West Virginia Income Maintenance Manual § 10.4 B(7)b(3) states:

AGs that do not qualify for the Heating/Cooling Standard (HCS) or the Non-Heating Cooling Standard (NHCS), but incur one utility expense, are eligible for the One Utility Standard (OUS). To be eligible for the OUS, the AG must also meet the following criteria: The utility cost must be separate and apart from the rent or mortgage payment of the residence.

6) West Virginia Income Maintenance Manual § 10.4 C states:

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.

The following steps are used to determine countable income for cases meeting the eligibility test.

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.

Step 4: Subtract the Standard Deduction found in Appendix B.

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/utility cost or shelter/SUA amount.

Step 10: If at least one member is elderly/disabled, and the shelter/utility expenses are less than or equal to the amount from Step 9, no further computation is needed. The amount from Step 8 is the countable income.

Determining coupon allotment: To determine the coupon allotment, the countable net income is multiplied by 30%. Subtract this amount from the maximum monthly benefit amount for the Assistance Group size as found in Appendix A.

VIII. CONCLUSIONS OF LAW:

- 1) Claimant's total gross unearned income is \$637 monthly. The only allowable deduction from Claimant's gross income is the Standard Deduction for Claimant's assistance group size (1) of \$134. Claimant does not qualify for a shelter deduction as 50% of his income after the Standard Deduction is more than is shelter/utility expenses.
- 2) Claimant's Food Stamp allotment is calculated as \$11 for April 2008 and ongoing (gross income of \$637 minus \$134 Standard Deduction equals \$503 multiplied by 30% equals \$150.90. This amount is subtracted by the maximum Food Stamp allotment for an AG of 1 of \$162 equals \$11.10, cents dropped).

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to reduce Claimant's Food Stamp allotment. Claimant's Food Stamps will be adjusted to \$11 monthly effective April 2008 and ongoing.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 27th Day of May, 2008.

Kristi Logan
State Hearing Officer