



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

June 2, 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 deny your Qualified Individual 1 and Food Stamp application due to excessive 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 Qualified Individual I and Food Stamp programs is based on current policy and regulations. Some of these regulations state as follows: To qualify for the Qualified Individual 1 program, the countable income must be at or below 135% of the Federal Poverty Level for the Assistance Group size. If a member of the Assistance Group is elderly or disabled, the Assistance Group need only meet the net income test for the Food Stamp program (West Virginia Income Maintenance Manual § 10.14 and 10.4).

The information which was submitted at your hearing revealed that you have excessive income to qualify for the Qualified Individual 1 program but you do meet the net income guidelines to qualify for the Food Stamp program.

It is the decision of the State Hearings Officer to **uphold** the decision of the Department to deny your Qualified Individual 1 application and **reverse** the decision of the Department to deny your Food Stamp application.

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,**

**Action Number: 08-BOR-1300  
08-BOR-1445**

**v.**

**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 January 22, 2008.

**II. PROGRAM PURPOSE:**

The Programs entitled Qualified Individual I and Food Stamps is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The Qualified Medicare Beneficiaries (QMB), the Specified Low Income Medicare Beneficiaries (SLIMB), and the Qualified Individuals (QI-1 and QI-2) Programs provide limited coverage under the Medicaid Program for eligible individuals or couples who are eligible for Medicare, Part A and who meet specified income tests. The QMBV program has a lower maximum income level and provides coverage of all Medicare co-insurance and deductibles as well as payment of the Medicare premium. SLIMB and QI-1 have higher maximum income levels and provide only for the payment of the Medicare Part B premium. The maximum income level for QI-2 is 175% of the Federal Poverty Level. This program pays for a portion of the Medicare premium.

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 Supervisor

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 deny Claimant's Qualified Individual I and Food Stamp application was correct.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual § 10.4, 10.16 and Appendices A and C

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

**Department's Exhibits:**

- D-1 Form IG-BR-29
- D-2 Hearing Request received January 22, 2008
- D-3 Notification Letter dated January 16, 2008
- D-4 West Virginia Income Maintenance Manual § 10.16 and Appendix A
- D-5 Department's Case Summary

**Claimants' Exhibits:**

- C-1 Payment Coupon for AARP Health Care Options
- C-2 Payment Coupon for AARP MedicareRx Preferred
- C-3 Premium Notice for [REDACTED] Life Insurance

**VII. FINDINGS OF FACT:**

- 1) Claimant was evaluated for the Qualified Individual 1 (QI-1) program and Food Stamp program on January 15, 2008. Claimant was determined to have excessive gross income for the QI-1 program and excessive net income for the Food Stamp program (D-5). A notification letter dated January 16, 2008 was issued and read in part (D-3):

Your January 15, 2008 application for Qualified Individual I was been denied.  
Income is more than the net income limit for you to receive benefits.

- 2) Claimant receives Social Security of \$1214.40 gross monthly. His Medicare premium of \$96.40 monthly is deducted from this amount. Claimant testified he also pays for Medicare supplemental health insurance through AARP of \$150.81 monthly and prescription coverage of \$23.05 monthly also through AARP. His out-of-pocket prescription costs are \$500 monthly.

Claimant's shelter costs include homeowners' insurance of \$236 semi-yearly, phone, water, sewer and electricity which is his heating cost.

Claimant was unsure if he presented his prescription costs and homeowners' insurance costs to his caseworker at application but was sure he had his payment booklets for both insurance plans through AARP. Claimant did not have verification of his homeowners' insurance or prescription costs to present into evidence.

- 3) West Virginia Income Maintenance Manual § 10.16 states:

Determining Eligibility [for Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLIMB) and Qualified Individuals I (QI-1)]

Countable income is determined as follows:

Step 1: Determine the total non-excluded gross unearned income and subtract the appropriate disregards. See Section 10.22,B.

Step 2: Determine the total non-excluded gross earned income. See Section 10.22,B.

Step 3: Add unearned income from Step 1 above.

Step 4: Subtract the amount of income diverted to a PASS account and the Death Benefit deduction.

The result is the total monthly countable income.

Step 5: Compare the amount in Step 4 to the QMB, SLIMB or QI-1 income levels for the appropriate number of persons. See item C,4 below. If the amount is less than or equal to the QMB, SLIMB or QI-1 income levels, the client(s) is eligible.

Eligibility for these coverage groups is determined as follows.

QMB - Income is less than or equal to 100% Federal Poverty Level (FPL).

SLIMB - Income is greater than 100% FPL, but less than or equal to 120% FPL.

QI-1 - Income is greater than 120% FPL, but less than or equal to 135% FPL.

- 4) West Virginia Income Maintenance Manual § 10 Appendix A states:

100% FPL is for an Assistance Group (AG) of one is \$867

120% FPL for an AG of one is \$1040

135% FPL for an AG of one is \$1170

5) West Virginia Income Maintenance Manual § 10.4 B states:

Certain items may be allowed as income deductions to arrive at an AG's countable income. A deduction is allowed even if the payment is made from assets. The expense must be billed or be due during the certification period in which the deduction is claimed. In addition, deductions from the AG's income are applied only if the expense is obligated to be met by the AG's own resources. The AG's obligation must be to an individual not included in the AG to receive a deduction.

**NOTE:** When a client fails to report household expenses which would normally result in a deduction, the AG loses their entitlement to that deduction. They have a right to the expense, once it is reported and verified, if required by policy.

Medical Expenses:

Medical Expenses Medical expenses in excess of \$35 must be allowed as a medical deduction. Only the medical expenses of AG members who are elderly, which is at least age 60, or disabled, as defined in Section 12.15,B, are considered. Once the medical expenses of all such AG members have been totaled, the amount of the total in excess of \$35 is used as a medical deduction. There is no maximum dollar limit for the amount of a medical deduction. Thirty-five dollars (\$35) is deducted from the total amount of expenses for the AG, not \$35 from each person's expenses.

Standard Utility Allowance (SUA):

Heating or Cooling Costs

AGs that are obligated to pay a heating or cooling expense that is billed on a regular basis are eligible for the Heating/Cooling Standard (HCS). This does not mean that there must be a monthly billing for heating or cooling throughout the year. It means that there must be a regular bill for heating or cooling during the appropriate season. Heating expenses include, but are not limited to, the cost of electricity, gas, oil, coal, wood, wood pellets and kerosene. Heating costs must be payments for the fuel item itself, and not for related costs. Related costs are those expenses necessary to obtain the fuel or to operate the unit, such as electricity to run a gas furnace.

6) West Virginia Income Maintenance Manual § 10.4 C

Determining Eligibility [for Food Stamps]: 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.

To determine the coupon allotment, find the countable income and the number in the AG in Appendix C. One- and two-person AG's who meet the gross and net income test or who are categorically eligible, as defined in Section 1.4.R.3, automatically receive a \$10 coupon allotment, unless it is a prorated allotment.

### VIII. CONCLUSIONS OF LAW:

- 1) Claimant's countable income for the Qualified Individual 1 program is \$1194.40 (gross Social Security income of \$1214.40 minus the \$20 SSI disregard). This amount exceeds the maximum income limit of \$1170 to qualify for the program.
- 2) Claimant's countable net income for the Food Stamp program is calculated as follows:

\$1214.40	Gross income
- 134.00	Standard Deduction
- <u>235.26</u>	Medical Deduction (\$270.26 - \$35)
= \$845.14	Net Countable Income

Claimant's Food Stamp allotment according to Appendix C based on his countable net income and Assistance Group size is \$10.

- 3) Although Claimant testified that he had other shelter and medical deductions, he did not have evidence of these deductions and was not sure if he reported these deductions at application. Per policy, only expenses that are reported can be used as a deduction. However, Claimant's Food Stamp allotment is calculated as \$10 monthly based on the evidence produced at the hearing.

### IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's decision to deny Claimant's Qualified Individual 1 application due to excessive income and **reverse** the Department's decision to deny Claimant's Food Stamp application due to excessive net income.

Claimant's Food Stamp allotment effective February 2008 and ongoing is \$10 monthly.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 2<sup>nd</sup> Day of June, 2008.**

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**Kristi Logan  
State Hearing Officer**