



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 18, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held June 16, 2008. Your hearing request was based on the Department of Health and Human Resources' determination of 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 Food Stamp allotment was correctly calculated.

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

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

Cc: Erika Young, Chairman, Board of Review
Linda Lane, Economic Service Worker

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

_____,
Claimant,

v.

Action Number: 08-BOR-1451

**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 June 16, 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 June 16, 2008 on a timely appeal, filed May 23, 2008.

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
Linda Lane, 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 calculation of you Food Stamp allotment is correct.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 10.4 and Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department's Case Summary
- D-2 Hearing Appointment Letter
- D-3 Screening Form and Rights and Responsibilities Form dated May 23, 2008
- D-4 Hearing Request dated May 23, 2008
- D-5 Form IG-BR-29
- D-6 Lease and Rental Agreement for Claimant for March 2008 – February 2009
- D-7 Case Comments from Rapids Computer System dated May 8, 2008 – May 27, 2008
- D-8 Notification Letter dated May 27, 2008
- D-9 Combined Application and Review Form dated May 23, 2008 and Food Stamp Allotment Calculation Screen (EFAD) from Rapids Computer System
- D-10 West Virginia Income Maintenance Manual 10.4 B

Claimants' Exhibits:

- C-1 None

VII. FINDINGS OF FACT:

- 1) Claimant reapplied for Food Stamps on May 23, 2008. A notification letter dated May 27, 2008 was issued and read in part (D-8):

Your application for Food Stamps dated May 23, 2008 has been approved. Your benefit for June 1, 2008 to June 30, 2008 will be \$11.

Claimant had previously been receiving \$10 a month in Food Stamps and was unsatisfied with the amount of the increase. Claimant requested a hearing (D-4).

- 2) Claimant receives \$790 a month in Social Security Disability. The state pays her Medicare premium of \$96.40. She pays rent of \$435 a month, which includes all utilities except phone (D-6). The basic rate for her phone service is \$40 a month. Her medical expenses are \$20 every three (3) months.

Claimant is taking a medical transcriptionist course at home and pays \$60 month in tuition. She feels like she should be getting more than \$11 in Food Stamps when her rent has increased from \$150 a month to \$435 a month and she is not burdening the government to pay for her schooling. Her car needs repairs and she needs new clothing.

3) West Virginia Income Maintenance Manual § 10.4 B states in part:

Certain items may be allowed as income deductions to arrive at an AG's countable income. The following are the only allowable disregards and deductions for the Food Stamp Program.

1. Earned Income Disregard

Twenty percent (20%) of gross non-excluded earned income, including gross profit from self-employment, is disregarded.

2. Standard Deduction

A Standard Deduction is applied to the total non-excluded income counted for the AG, after application of the Earned Income Disregard. The amount of the Standard Deduction is found in Appendix B.

3. Dependant Care Deduction

A deduction is allowed for payment for the care of a child or other dependent, when the expense is necessary for an Income Group member to accept, continue or seek employment or training, or pursue education which is preparatory to employment.

4. Child Support Deduction

A deduction is allowed for legally obligated child support actually paid by an AG member or disqualified individual to an individual not residing in the same household.

5. Homeless Shelter Standard Deduction

This deduction may be applied when a homeless AG incurs any shelter/utility expenses for the month.

6. Medical Expenses

Medical expenses in excess of \$35 must be allowed as a medical deduction.

7. Shelter/Utility Deduction

After all other exclusions, disregards and deductions have been applied, 50% of the remaining income is compared to the total monthly shelter costs and

the appropriate Standard Utility Allowance (SUA). If the shelter costs/SUA exceed 50% of the remaining income, the amount in excess of 50% is deducted.

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 gross non-excluded income is \$790 a month. Her net countable income and Food Stamp allotment is calculated as follows:

\$790.00 Gross Income
- 134.00 Standard Deduction
\$656.00

Claimant's shelter costs total \$481 (rent of \$435 plus One Utility Standard of \$46). Fifty percent (50%) of her remaining income is \$328 (\$656 divided by 2). Since Claimant's shelter costs exceed fifty percent of her income, she is allowed a shelter deduction of the difference of \$153 (\$481 minus \$328).

Claimant's countable net income is \$503. Thirty percent (30%) of Claimant's net income is \$150.90. This amount is subtracted from the maximum Food Stamp allotment for an Assistance Group of one (1) of \$162 (\$162 minus \$150.90, cents dropped). Claimant's Food Stamp allotment is calculated as \$11.

- 2) Claimant was given all the deductions she was eligible for as indicated in policy. Claimant's Food Stamp allotment of \$11 was correctly calculated.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's determination of your Food Stamp allotment.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th Day of June, 2008.

Kristi Logan
State Hearing Officer