



State of West Virginia  
**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
Office of Inspector General  
Board of Review  
P.O. Box 970  
Danville, WV 25053

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

August 11, 2008

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

Dear Ms. \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 31, 2008. Your hearing request was based on the Department of Health and Human Resources' action to deny your Food Stamp application.

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 verifying earned income, the year-to-date amounts on pay stubs may only be used when the client has verification of all of the other pay amounts whether used or not, but is missing one. (WV Income Maintenance Manual Section 4.2.B)

Based on information submitted at your hearing, you provided sufficient income verification for the Department to calculate your countable income. The Department failed to utilize year to date information in their calculations.

It is the decision of the State Hearing Officer to **reverse** the action of the Department to deny your Food Stamp application.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Susan Cook, Putnam DHHR

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

\_\_\_\_\_,

**Claimant,**

**v.**

**Action Number: 08-BOR-1604**

**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 July 31, 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 July 31, 2008 on a timely appeal filed June 10, 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  
\_\_\_\_\_, Claimant's boyfriend

Susan Cook, Supervisor, Department Representative  
Michelle Long, Income Maintenance Worker, Witness

Presiding at the hearing was Cheryl Henson, 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 took the correct action to deny the Claimant's Food Stamp application.

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

West Virginia Income Maintenance Manual Chapter 4.2.B

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

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

- D-1 WV Income Maintenance Manual Section 4.2
- D-2 IGBR29
- D-3 Notification Letter dated April 17, 2008
- D-4 Notification letter dated June 10, 2008

#### **Claimant's Exhibits:**

- C-1 Notification letter dated June 3, 2008
- C-2 Copy of Pay Stubs from \_\_\_\_\_

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

- 1) The Claimant applied for Food Stamps on April 17, 2008 as an earned income case, and supplied the Department with pay stubs (C-2) covering the periods of March 1, 2008 through March 14, 2008, and March 29, 2008 through April 11, 2008. The Claimant indicated she is paid on the following Wednesday after the ending date on the pay stubs.

- 2) The Department issued a verification checklist (D-3) on April 17, 2008 informing the Claimant that additional information was needed to complete the application process. The letter included the following pertinent information:

This is to inform you that the information listed below is needed to establish your eligibility for: Food Stamps

If this information is not made available to this office by May 17, 2008 your eligibility for benefits and/or deductions cannot be established or continued.

HOUSEHOLD INFORMATION NEEDED:

INDIVIDUAL INFORMATION NEEDED:

---

EMPLOYMENT INCOME

Proof of gross earned income, such as paystubs/employer statement

- 3) The Department sent the Claimant a Notice of Decision on June 10, 2008 (D-4), which states, in part:

Action: Your 04/17/08 application for Food Stamps has been DENIED.

If you or anyone who lives in your household begins receiving SSI, please contact your local county office so that your eligibility for the Food Stamp program can be reevaluated.

Reason: You did not turn in all requested information.

- 4) The Claimant presented evidence (C-1) to show that she received another notice from the Department on June 3, 2008 which states in pertinent part:

ACTION: Your April 17, 2008 application for FOOD STAMPS has been DENIED.

If you or anyone who lives in your household begins receiving SSI, please contact your local county office so that your eligibility for the Food Stamp program can be reevaluated.

REASON: This individual's current living situation prevents him from being eligible for this assistance.

The payee of the benefit is no longer in the home.

The county that you reside in does not have time limited Food Stamp eligibility.

The following individuals are ineligible. If affected by the ABAWD 36 month tracking policy, the tracking period will be stated after their name.

\_\_\_\_\_ FROM 12/2005 TO 11/2008

\_\_\_\_\_ FROM 12/2005 TO 11/2008

This individual's current living situation prevents him or her from being eligible for this assistance.

The Department does not dispute that this letter was sent to the Claimant, but indicates it must have been an error. They offered no further explanation as to why the letter was sent to the Claimant. The Claimant indicated she did not receive the letter date June 10, 2008 (D-4) from the Department. She stated she only received the letter dated June 3, 2008 (C-1). Both letters were mailed to the same address.

- 5) The Claimant contends that the Department informed her that she needed to provide the pay stub for the period March 14, 2008 through March 28, 2008 on the date of application. She states that she dropped the pay stub off at the front desk on the same date, and was unaware that the Department had not received it until after denial of her application.
- 6) The Department contends that they never received the needed paystub for March 15, 2008 through March 28, 2008, and thus denied the application due to failure to provide all requested verification. They stated that she was notified on June 10, 2008 (D-4) of the reason for denial.
- 7) When asked about the possible use of year to date information in determining the countable income, the Department indicated that if an applicant states during an application that they do not have the missing pay stub, the Department will utilize year to date information in their calculations. However, in this instance, the Department reported they did not utilize this means of calculation when they did not receive the missing pay stub.
- 8) The pay stubs provided on the date of application clearly show year to date amounts, and by subtracting the earnings known from the March 20 – April 11, 2008 pay stub, it is clear that the gross pay for the missing pay stub – March 15, 2008 through March 28, 2008 is \$368.21. The Department had this information available to them on the date of application, and should have utilized it when determining if enough information was available to calculate countable income.
- 9) WV Income Maintenance Manual Section 4.2, B states in pertinent part:

**B. INCOME  
ITEM**

**1. Earned Income**

NOTE: The year-to date amounts on pay stubs may only be used when the client has verification of all of the other pay amounts whether used or not, but is missing one.

**POSSIBLE SOURCES OF VERIFICATION**

Pay stubs, written statement from employer, self employment records, Work Record Sheet ES-17

Use the best source of verification available. When there is absolutely no other source of verification, the client's statement must be used.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy provides that year to date income may be used when all of the other pay amounts are verified except for the missing pay stub.
- 2) The Claimant provided the Department with the pay stub immediately before and after the missing pay stub; therefore, they had sufficient income verification available to calculate countable income for the Food Stamp program.
- 3) The Department failed to follow policy and therefore incorrectly denied the Claimant's application for Food Stamps.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **reverse** the action of the Department to deny the Claimant's Food Stamp application.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 11<sup>th</sup> Day of August, 2008**

---

**Cheryl Henson  
State Hearing Officer**