



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

November 24, 2008

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

Dear \_\_\_\_\_:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 27, 2008. Your hearing request was based on the Department of Health and Human Resources' reduction of your Food Stamp benefits due to a decrease in the allowable medical deduction.

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: 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. (West Virginia Income Maintenance Manual, Chapter 10.4.B.6)

The information submitted at your hearing revealed that the Department correctly considered and allowed all verified medical expenses.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to reduce your Food Stamp benefits due to a decrease in the allowable medical deduction.

Sincerely,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Lisa Tanner, Department Representative

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

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

**Action Number: 08-BOR-1863**

**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 November 24, 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 August 27, 2008 on a timely appeal, filed August 4, 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  
Lisa Tanner, Department Representative

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct to reduce the Claimant's Food Stamp benefits due to a reduction in the allowable medical deduction.

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

West Virginia Income Maintenance Manual, Chapter 10.4

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

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

- D-1 Case Comments from April 23, 2008 through April 28, 2008
- D-2 Notification letter dated May 15, 2008
- D-3 Case Comments from May 14, 2008 through June 16, 2008
- D-4 Medical Expense screen print
- D-5 Medical Expense screen print
- D-6 Medical Expense screen print
- D-7 Medical Expense screen print
- D-8 Medical Expense screen print and listing of total
- D-9 Notification letter dated July 29, 2008
- D-10 Food Stamp calculation form and Food Stamp Allotment Determination screen print
- D-11 West Virginia State Online Query of RSDI benefits
- D-12 Food Stamp Issuance History screen print
- D-13 West Virginia Income Maintenance Manual, Chapter 10.4.A
- D-14 West Virginia Income Maintenance Manual, Chapter 10, Appendix B
- D-15 West Virginia Income Maintenance Manual, Chapter 10.4.B.7
- D-16 West Virginia Income Maintenance Manual, Chapter 10, Appendix A

#### **Claimants' Exhibits:**

- C-1 Medical expense verification
- C-2 Medical expense receipts
- C-3 Medical expense verification
- C-4 Medical expense receipts
- C-5 Medical expense receipts
- C-6 Notes on medical expenses

## VII. FINDINGS OF FACT:

- 1) On April 28, 2008, the Claimant completed a Food Stamp review during which he reported monthly medical expenses (Exhibit D-1). These expenses were to be verified by the Claimant, prior to the Department's processing of the Food Stamp review. The expenses were not verified timely (Exhibit D-3), and a notice was sent to the Claimant (Exhibit D-2), advising him of a reduction in Food Stamp benefits because unverified medical expenses were not used in the calculation of his Food Stamp allotment.
- 2) The Claimant verified his monthly medical expenses later, and a second notice was sent to the Claimant advising him of the increase in his Food Stamp amount to \$27.00 monthly (Exhibit D-9). This increase still represented a decrease from the amount prior to the first notification. The Claimant was unsatisfied with the resulting increase, and did not feel that it adequately reflected his correct monthly medical expenses.
- 3) The Department presented screen prints detailing the monthly medical expenses allowed in the calculation of the Claimant's Food Stamp allotment (Exhibits D-4, D-5, D-6, D-7, and D-8). Exhibit D-8 also shows an adding machine total. Monthly medical expenses counted on the Claimant's behalf include \$16.00 to Med Express (Exhibit D-4), \$9.41 to Dr. [REDACTED] (Exhibit D-5), \$15.00 to Dr. [REDACTED] (Exhibit D-6), \$20.00 to Dr. [REDACTED] (Exhibit D-7) and \$57.21 to [REDACTED] for prescriptions (Exhibit D-8), for a total of \$117.62.
- 4) West Virginia Income Maintenance Manual, Chapter 10.4.B.6, states, in pertinent part:

6. 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.
- 5) The Department showed, using both manual calculations and a screen print showing the computer-generated calculations (Exhibit D-10), that the Claimant's medical expenses in excess of thirty-five dollars (\$35) were used as a medical deduction. The Department explained the entire calculation process used to determine the allotment amount of \$27.00 cited in the July notice to the Claimant (Exhibit D-9). However, the only disputed area by the Claimant in the calculation process was related to medical expenses.

- 6) The Claimant testified that he had additional medical expenses. Evidence was presented on his behalf, in the form of receipts, medical bills, and notes (Exhibits C-1, C-2, C-3, C-4, C-5, and C-6). However, these documents were presented from the Claimant's file with the Department, and revealed no expenses that were not previously considered by the Department.
- 7) The Claimant noted a statement in a medical bill submitted as evidence (Exhibit C-1). This document states, in pertinent part:

This document includes a summary of claims processed from 05/01/2008 through 05/31/2008. It also includes a cumulative statement of the benefits you have been provided this year.

The Claimant contended that the cumulative amount spent in 2008 should be his medical deduction. The Department worker explained that the itemized amount for the month of May 2008, plus a \$9.13 monthly prescription the Department verified verbally, is the \$57.21 amount the Department used, and reflects the medical expense shown in Exhibit D-8.

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

- 1) The Food Stamp program allows the monthly medical expenses of certain households to be used as a deduction from income in determining the Food Stamp benefit amount.
- 2) The Claimant confused the year-to-date total of medical expenses on one bill for a monthly amount. The Department was correct to use the itemized, monthly amount in determining the Claimant's expense for prescriptions.
- 3) The Department clearly showed that it correctly determined all of the Claimant's verified monthly medical expenses, and used them correctly in the determination of his Food Stamp allotment.

#### **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department to reduce the Claimant's Food Stamp benefits due to a reduction in the allowable medical deduction.

#### **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ Day of November, 2008.**

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**Todd Thornton  
State Hearing Officer**