



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

February 1, 2008

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 4, 2007. 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 no Assistance Group member is elderly or disabled, the gross income must be equal to or less than the gross income limit listed in Chapter 10, Appendix A (130% of the Federal Poverty Level) for the Assistance Group size to qualify for Food Stamps. (West Virginia Income Maintenance Manual Section 10.4) 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 eligible for the medical expense deduction.(West Virginia Income Maintenance Manual Section 10.4, B,6)

Based on information submitted at your hearing, you are not elderly or disabled, and do not qualify for a medical expense deduction. Your gross household income of \$1263.79 exceeds the gross income limit for a one (1) person household, and is excessive for the Food Stamp Program.

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

Sincerely,

Cheryl McKinney (Henson)
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Dinah Perdue, [REDACTED] DHHR

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

_____,
Claimant,

v.

Action Number: 07-BOR-2351

**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 December 4, 2007 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 December 4, 2007 on a timely appeal filed October 23, 2007.

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
Dinah Perdue, Income Maintenance Worker, [REDACTED] DHHR

Presiding at the hearing was Cheryl McKinney (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 Chapters 10.4, Chapter 10, Appendix A and

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 IGBR29
- D-3 Copies of Screener information dated September 21, 2007
- D-4 Rights and Responsibilities dated September 21, 2007
- D-5 Combined Application Form dated September 21, 2007
- D-6 Notification letter dated September 21, 2007
- D-7 Notification letter dated September 21, 2007 with attached documentations
- D-8 Notification letter dated October 11, 2007
- D-9 Copies of Case Comments
- D-10 WV Income Maintenance Manual Section 10.4

Claimant's Exhibits:

- C-1 Summary statement
- C-2 Copy of Bank Statement dated October 5, 2007
- C-3 Copy of Bank Statement dated September 5, 2007
- C-4 Copy of Auto Insurance bill dated September 11, 2007

VII. FINDINGS OF FACT:

- 1) The Claimant came into the local office and applied for Food Stamps on September 21, 2007 (D-5) as a one person household. The Claimant was 55 years old at the time of application. At that time, she was given a letter (D-6) requesting proof of her income, proof of her health insurance cost and proof of Bureau of Employment registration. The Claimant provided the proof (D-7) of unearned income and health insurance cost on October 9, 2007.
- 2) The Department determined the Claimant is not elderly or disabled and therefore she was not given a deduction for the cost of health insurance. The Department determined the Claimant's income was from her ex-husband's pension, and therefore the gross income of \$1263.79 (D-7) was counted as "unearned". The Department compared this income to the Chapter 10, Appendix A Gross Income Test. The maximum gross income allowed for a one (1) person household is \$1107.00. The Claimant's total income of \$1263.79 was determined to have failed the Gross Income Test. The application was denied on October 11, 2007.
- 3) The Department sent the Claimant a Notice of Decision on October 11, 2007 (D-8), which states, in part:

Action: Your 9/21/07 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: Income is too much for you to receive benefits. Income is more than the net income limit for you to receive benefits.

- 4) The Claimant testified that she has had many financial hardships to deal with and should be eligible for food stamps. She did not dispute the amount of pension income considered, but stated she should have been given a deduction for the health benefits insurance premium (D-7) in the amount of \$360.77 that is deducted from her pension payment monthly. She stated that she is having state and federal income taxes taken out of the pension payment and should be given a deduction for this expense as well.
- 5) West Virginia Income Maintenance Manual Chapter 10.4C, 1 states in pertinent part:

When at least one AG member is elderly or disabled as specified in Section 12.15, B, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. There is no gross income test.

When no AG member is elderly or disabled, the gross income must be equal to or less than the gross income limit in Appendix A. If so, the AG qualifies for the disregards and deductions in

Section 10.4, B. If the gross income exceeds the amount in Appendix A, the AG is ineligible.

- 6) WV Income Maintenance Manual Chapter 10.4.B.6 states in pertinent part:

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.

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant completed a Food Stamp application on September 21, 2007 and was found to have a household income of \$1263.79 from a pension.
- 2) For Food Stamp purposes, gross income is considered when no Assistance Group members are elderly or disabled. Policy dictates that the maximum allowable gross income for a one (1) person benefit group is \$1107.00. The Claimant is not elderly or disabled and is not eligible for a medical expense deduction. The Claimant's total countable income of \$1263.79 is in excess of the maximum allowable gross income amount of \$1107.00, and therefore the Claimant fails the gross income test.
- 3) The Department followed policy and is correct in their determination that this Claimant is ineligible due to excessive income.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** 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 1st Day of February, 2008

Cheryl McKinney (Henson)
State Hearing Officer