



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

April 22, 2008

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 18, 2008. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your Food Stamp benefits.

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 at least one assistance group 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. To determine the coupon allotment, find the countable income and the number in the assistance group in Appendix C. (West Virginia Income Maintenance Manual Chapter 10.4)

Based on information submitted at the hearing, the Department's proposal to reduce your Food Stamp allotment is correct.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to decrease your Food Stamp benefits.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Angela Jennings, ESW, DHHR
Sharon Straley, FSS, DHHR

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

Claimant,

Action Number: 08-BOR-976

**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 April 22, 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 April 18, 2008 on a timely appeal filed February 28, 2008.

It should be noted that benefits have been continued pending the results of the hearing.

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
Angela Jennings, Economic Service Worker, DHHR

Presiding at the hearing was Pamela L. Hinzman, 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 proposal to reduce the Claimant's Food Stamp benefits is correct.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapters 10.3, 10.4, 10-Appendix B, and 10-Appendix C

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notices of Decision dated March 3, 2008 and March 15, 2008
- D-2 Household income information
- D-3 Information concerning child support payments
- D-4 West Virginia Income Maintenance Manual Chapter 10.4

VII. FINDINGS OF FACT:

- 1) As a result of a mass computer change updating 2008 Social Security income amounts, the Claimant's Food Stamp benefits were scheduled to decrease from \$268 to \$220 effective April 1, 2008. This information is documented in a Notice of Decision (D-1) dated March 3, 2008. Exhibit D-2 indicates that the Claimant's Social Security income was \$825 per month prior to the mass change and \$844.40 per month following the update.
- 2) In March 2008, the Department implemented a policy that changed the amount of the Standard Utility Allowance deduction. Therefore, the Claimant's Food Stamp allotment increased from the proposed \$220 to \$241 effective April 1, 2008. The Department sent the Claimant a second Notice of Decision (D-1) on March 15, 2008 advising him of the change.

- 3) The Claimant's only household income is his Social Security Disability of \$844.40 as his wife currently has no income. A total of \$175 is deducted from the Claimant's monthly Social Security income as payment for child support expenses (D-3).

While the Claimant did not dispute the Department's income computation, he testified that he and his wife have only \$100 remaining each month to purchase food, household items, etc., after paying rent (\$250 per month), utilities, insurance and medical expenses. He indicated that his medical expenses do not exceed \$35 per month.

- 4) West Virginia Income Maintenance Manual Chapter 10.4, C, 1 states:

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.

- 5) West Virginia Income Maintenance Manual Chapter 10.4, B (D-4) lists allowable income deductions for the Food Stamp Program. These deductions include a 20 percent earned income deduction, a standard deduction, a dependent care deduction, a deduction for child support paid, the homeless shelter standard deduction, a deduction for medical expenses in excess of \$35 per month (only for persons disabled or over age 60), and a shelter/utility deduction.
- 6) West Virginia Income Maintenance Manual Chapter 10.3, MMM states that Social Security Disability payments are counted as unearned income for the Food Stamp Program.
- 7) West Virginia Income Maintenance Manual Chapter 10.4, C (D-4) states:

2. Determining Countable Income

The following steps are used to determine countable income for cases meeting the eligibility tests in item 1 above.

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, including the WV WORKS benefit and any amount reduced or being repaid to the WV WORKS due to failure to comply with a program requirement. See Section 10.4, D.

Step 4: Subtract the Standard Deduction found in Appendix B. (*Currently \$134*)

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/SUA amount.

Step 10:

No One Elderly or Disabled		At Least One Person Elderly or Disabled
Shelter/SUA Equal To Or Less Than Step 9.	No further computation is needed. The amount from Step 8 is the countable income.	No further computation is needed. The amount from Step 8 is the countable income.
Shelter/ SUA Greater Than Step 9.	The amount in excess of 50%, not to exceed the shelter/ utility cap, in Appendix B is deducted to arrive at countable income.	The amount in excess of 50% is deducted, without regard to the shelter/ utility cap, in Appendix B to arrive at countable income.

Step 11: Compare the countable income to the maximum net income in Appendix A for the AG size. This net income test does not apply to Categorically Eligible AGs.

3. Determining The Amount Of The Benefit

To determine the coupon allotment, find the countable income and the number in the AG in Appendix C.

8) West Virginia Income Maintenance Manual Chapter 10.4, 7, b states:

The Standard Utility Allowances are fixed deductions which are adjusted yearly to allow for fluctuations in utility costs. These deductions are the Heating/Cooling Standard (HCS), the Non-

Heating/Cooling Standard (NHCS), and the One Utility Standard (OUS). The current SUA amounts are found in Appendix B. AGs that are obligated to pay from their own resources a utility expense that is billed separately from their shelter costs are eligible for an 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.

Appendix B indicates that the Standard Utility Allowance is \$366.

- 9) West Virginia Income Maintenance Manual Section 10, Appendix C lists Food Stamp allotments based on income and the number of individuals in the assistance group.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that Social Security Disability is counted as unearned income for the Food Stamp Program. To find the coupon allotment, countable income (after all allowable deductions) is compared to Chapter 10, Appendix C for the number of individuals in the assistance group.
- 2) The Claimant's income increased to \$844.40 as a result of a Social Security Cost of Living Allowance. The Claimant is eligible for the following income deductions: \$134 standard deduction; \$175 child support deduction; and shelter/utility deduction of \$348.30. The shelter/utility deduction is computed by comparing one-half of the Claimant's remaining income ($\$844.40 - \$134 = \$710.40$ $-\$175 = \$535.40/2 = \$267.70$) and comparing it to the shelter/utility amount ($\$250 \text{ rent} + \$366 \text{ Standard Utility Allowance} = \616). Since the remaining income ($\$267.70$) is lower than the Claimant's shelter/utility costs, the remaining income is subtracted from \$616. The result is a \$348.30 shelter/utility deduction. The remaining income, $\$535.40 - \348.30 shelter/utility deduction results in \$187.10 countable income.
- 3) Policy in Section 10, Appendix C indicates that a two-person assistance group with countable income of \$187.10 is entitled to \$241 in Food Stamps.
- 4) The Department's proposal to decrease the Claimant's Food Stamp allotment is correct.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to reduce the Claimant's Food Stamp benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd Day of April 2008.

**Pamela L. Hinzman
State Hearing Officer**