



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 468
Hamlin, WV 25523

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

August 13, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 6, 2009. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your SNAP benefits effective July 2009.

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 and benefit levels for SNAP benefits are based on current policy and regulations. Some of these regulations state: Eligibility for Food Stamp benefits and the amount of the Food Stamp allotment are based on a determination of countable household income (that income remaining after all appropriate disregards and deductions are applied) and the number of individuals in the Food Stamp benefit group. (West Virginia Income Maintenance Manual ' 10.4 and 7 CFR 273.10(e) - Code of Federal Regulations)

The information submitted at your hearing reveals that your net monthly countable household income increased to three hundred ninety two dollars (\$392.00) effective July 2009 and you were eligible to receive eighty two dollars (\$82.00) SNAP benefits monthly beginning that same month.

It is the decision of the State Hearing Officer to **reverse** the action of the Department in reducing your SNAP benefits from one hundred nine dollars (\$109.00) to thirty one dollars (\$31.00), and then **reverse** their next action to increase the SNAP benefits to just eighty dollars (\$80.00) for July 2009.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
-----, CSRC

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

-----,

Claimant,

v.

Action Number: 09-BOR-1515

**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 August 6, 2009 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 6, 2009 on a timely appeal filed June 22, 2009.

It should be noted that the Claimant's SNAP benefits have been continued pending the outcome of this hearing.

II. PROGRAM PURPOSE:

Supplemental Nutrition Assistance Program (SNAP)

The purpose of the Supplemental Nutrition Assistance Program (SNAP) 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 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, representing himself

-----, Customer Service Reporting Center (CSRC), Department Representative

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 to be decided is whether the Department was correct in its proposal to reduce the Claimant's SNAP benefits effective July 2009.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual ' 10.4 and Appendix C.
7 CFR ' 273.9 & 7 CFR ' 273.10 - Code of Federal Regulations

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 DFA-SNAP-12 Twelve (12) Month Redetermination form dated May 18, 2009
- D-2 WV Income Maintenance Manual Section 2.2
- D-3 WV Income Maintenance Manual Section 10.4
- D-4 [REDACTED] Housing Notice of Change in Payment form dated October 8, 2008
- D-5 Customer's Receipt dated June 3, 2009 for \$200.00
- D-6 Case Comments dated June 2009
- D-7 Department's Summary dated July 27, 2009
- D-8 Notification letter dated June 17, 2009

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was actively receiving SNAP benefits as a twenty four (24) month certification case during the month of May 2009 when he completed a DFA-SNAP-12 form (D-1) and submitted to the Department. The DFA-SNAP-12 form is a twelve (12) month redetermination form which must be completed (D-2) by all assistance groups (AG) that are certified for SNAP benefits for twenty four (24) months at a time. The form is completed by the recipient and returned by mail.
- 2) The Department presented evidence (D-6) to show they processed the DFA-SNAP-12 form on June 4, 2009. The Department contends that policy requires (D-2) them to treat all changes reported on the DFA-SNAP-12 form as changes reported during the certification period, not as changes reported during the completion of a redetermination. The Department provides that

the Claimant reported that he had a change in rent obligation, an increase in income, and that he now heats his home with gas. The Department requested verification of the changes.

- 3) The Claimant sent the Department a copy of his [REDACTED] Housing Notice of Change in Payment form (D-4) which shows he is required to pay one hundred thirty eight dollars (\$138.00) monthly for his rent to ----- . The notice includes a statement that reads:

Please keep in mind, the family is required to pay the above amount ONLY!
Any amount paid/received in excess of this amount is ILLEGAL

The Claimant also sent a copy of a money order receipt dated June 3, 2009 and made out to ---- - in the amount of two hundred dollars (\$200.00). The Claimant contends that he had to pay Mr. ----- for some maintenance that he performed, which included removal of trash, repair of a window and a door. The Department made no allowances for this payment.

- 4) The Department reports that an error was made when these changes were implemented. The Department removed the Claimant's standard utility allowance (SUA) deduction in error, which caused the SNAP benefits to be incorrect as stated on the June 17, 2009 notification letter (D-8) sent to the Claimant. The Department explained that because the Claimant had received Low Income Energy Assistance Program (LIEAP) benefits he was entitled to the SUA. The June 17, 2009 notice includes the following pertinent information:

ACTION: Your SNAP will decrease from \$109.00 to \$31.00 effective 07/01/09.

REASON: Your shelter and/or utility costs are less.
Your income has increased.

The following is the list of individuals who are eligible for this benefit. If an individual's income has increased or decreased, this will be stated followed by the amount of the increase or decrease.

----- III

Your income has increased. \$51.00

- 5) The Department reports that the error in removing the SUA was corrected after the notice was sent to the Claimant. This correction increased the SNAP benefits to eighty dollars (\$80.00) effective July 2009. Therefore, this hearing will now be concerned with the decrease in SNAP benefits from \$109.00 to \$80.00.
- 6) The Claimant reported his income as six hundred sixty four dollars (\$664.00) Social Security and eighty one dollars (\$81.00) Supplemental Security Income for the period in question. This amount is not in dispute.
- 7) The Department's contention that the Claimant was eligible for eighty dollars (\$80.00) in SNAP benefits for July 2009 was based on his undisputed gross monthly income of seven hundred forty five dollars (\$745.00), with allowable deductions including one hundred forty four dollars (\$144.00) for the standard deduction, and two hundred four dollars (\$204.00) for the shelter/utility deduction, leaving a countable net monthly income of three hundred ninety seven dollars (\$397.00).

- 8) The Claimant contends the extra money he paid to ----- for his rent and maintenance is an allowable expense to be considered. The extra money paid was sixty two dollars (\$62.00). The Claimant did not provide information to determine if this amount is paid monthly or whether this is a one time expense. It will be considered a one time expense for the purposes of this hearing, which when converted to a monthly amount equals five dollars (\$5.00) averaged over twelve months. In considering this deduction for shelter maintenance the Claimant's shelter/utility deduction would now be two hundred nine dollars (\$209.00), leaving a countable net monthly income of three hundred ninety two dollars (\$392.00).
- 9) The Claimant went on to say that his expenses keep going up but his income is decreasing. The Department acknowledged that his income has decreased since the changes were made and they have adjusted his SNAP benefits accordingly effective September 2009.
- 10) WV Income Maintenance Manual, Chapter 10.4 contains policy regarding income disregards and deductions, and to computation of and eligibility for Food Stamp benefits. It also states: To determine the coupon allotment, find the countable net monthly income and number in the benefit group. This policy goes on to say that for shelter costs, the cost of repairing the home which was damaged or destroyed due to a natural disaster or misfortune including, but not limited to, fire flood or freezing temperatures. This does not include charges that will be or have been reimbursed from any source such as insurance, private agency, etc.
- 11) Pursuant to Chapter 10.4 of the WV Income Maintenance Manual, Appendix C – Supplemental Nutrition Assistance Program (SNAP), Basis of Issuance effective April 1, 2009 – An individual with a net monthly income of three hundred ninety two dollars (\$392.00) is entitled to receive eighty two dollars (\$82) per month of SNAP benefits.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that SNAP benefits are calculated by beginning with the total gross income, and subtracting certain deductions and disregards to arrive at a final net monthly countable income. In this case, the Claimant's total gross income is seven hundred forty five dollars (\$745.00), and he is eligible for a shelter deduction of one hundred forty four dollars (\$144.00), and a shelter/utility deduction of two hundred nine dollars (\$209.00), which leaves a net countable monthly income of three hundred ninety two dollars (\$392.00).
- 2) Policy also provides that, based on the countable income of three hundred ninety two dollars (\$392.00), the Claimant is entitled to eighty two dollars (82.00) SNAP benefits effective July 2009. Policy provides that the extra amount the Claimant paid his landlord for repairs in this one instance can be considered in his shelter cost, therefore raising his shelter cost from one hundred thirty eight dollars (\$138.00) to one hundred forty three dollars (\$143.00) monthly during the remainder of the certification period.
- 3) Based on the evidence presented at the hearing, the Department incorrectly calculated your SNAP benefits for the month of July 2009 at thirty one dollars (31.00). They also incorrectly adjusted your July 2009 SNAP benefits to eighty dollars (\$80.00).
- 4) Based on the information provided during this hearing, you are entitled to eighty two dollars (\$82.00) monthly SNAP benefits effective July 2009.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the action of the Department in reducing the Claimant's SNAP benefits from one hundred nine dollars (\$109.00) to thirty one dollars (\$31.00) per month effective July 2009. The Department is also **reversed** in their decision to increase the SNAP benefits to eighty dollars (\$80.00) effective July 2009.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 13th Day of August, 2009.

**Cheryl Henson
State Hearing Officer**