



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Joe Manchin III
Governor

Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary

December 15, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 19, 2009. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your SNAP 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 and benefit levels for the SNAP benefits are based on current policy and regulations. Some of these regulations state: Eligibility for Food Stamp [SNAP] 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. Unemployment Compensation and stimulus money provided through the American Recovery and Reinvestment Act of 2009 is counted as unearned income (West Virginia Income Maintenance Manual, Chapter 10.3, 10.4 and 7 CFR §273.10(e) - Code of Federal Regulations)

The information submitted at your hearing reveals that your monthly countable household income increased by \$795.50 per month when you began receiving unemployment benefits. Because your monthly countable income increased (the income remaining after all appropriate disregards and deductions are applied), your SNAP benefits decreased from \$200 to \$16 per month effective November 1, 2009.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in reducing your SNAP benefits from \$200 to \$16 per month effective November 1, 2009.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Mark Paree, ESW, DHHR

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

-----,

Claimant,

v.

Action Number: 09-BOR-2104

**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 15, 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 November 19, 2009 on a timely appeal filed October 20, 2009.

II. PROGRAM PURPOSE:

The Program entitled Supplemental Nutrition Assistance Program (SNAP) is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of 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 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
Mark Paree, ESW, DHHR

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether or not the Department was correct in its action to reduce the Claimant's SNAP benefits effective November 2009.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 10.3, 10.4 and Chapter 10, Appendix C.
7 CFR § 273.9 & 7 CFR § 273.10 - Code of Federal Regulations

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

*Exhibits D-1, D-2 and D-3 were relevant to the Claimant's withdrawn Medicaid appeal and have no bearing on this case.

D-4 Notice of Decision dated 10/13/09

D-5 Claimant Profile Data (Verification of Unemployment Income)

D-6 Food Stamp [SNAP] Allotment Determination with income calculation

D-7 WV Income Maintenance Manual, Chapter 10, Appendix C

VII. FINDINGS OF FACT:

- 1) On or about October 13, 2009 the Claimant was notified via a Notice of Decision (D-4) that his SNAP [Formerly Food Stamp] benefits were going to be reduced from \$200 to \$16 per month effective November 1, 2009.
- 2) The Department presented Exhibit D-5 to verify receipt of Unemployment Income in the amount of \$185 per week. As agreed on the record, \$160 is from unemployment benefits and \$25 was reported to be federal stimulus money. Exhibit D-6 reveals that the Claimant's weekly income was converted to a monthly average (\$185 x 4.3= \$795.50 per month) and when the appropriate income deductions and disregards are applied, pursuant to WVIMM, Chapter 10, Appendix C(D-7), the Claimant was eligible to receive \$16 per month of SNAP benefits.
- 3) The calculations resulting in the SNAP benefit amount was not contested by the Claimant, however, he contends that the State of West Virginia is penalizing him by counting unemployment income and the additional stimulus money against his benefits. The Claimant acknowledged that his issue was specific to the policy.
- 4) WV Income Maintenance Manual, Chapter 10.4 contains policy regarding income disregards and deductions, and to the computation of and eligibility for SNAP benefits. It also states: To determine the coupon allotment, find the countable monthly income and number in the benefit group.

- 5) Policy found at WV Income Maintenance Manual, Chapter 10.3, KKKK., states that UCI (Unemployment Compensation) counts as unearned income for SNAP benefits and notes that the \$25 week increase in UCI benefits from the American Recovery and Reinvestment Act of 2009 is counted as unearned income [for SNAP benefit calculation].

VIII. CONCLUSIONS OF LAW:

- 1) The regulations that govern the SNAP states that Unemployment Compensation counts as unearned income for SNAP benefits, and that the \$25 per week increase in UCI benefits from the American Recovery and Reinvestment Act of 2009 also counts as unearned income when calculating SNAP benefit amounts.
- 2) Based on the evidence, the Department has correctly applied the regulatory requirements in its action to reduce the Claimant's SNAP benefits effective November 2009.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in reducing the Claimant's SNAP benefits effective November 1, 2009.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 15th Day of December, 2009.

**Thomas E. Arnett
State Hearing Officer
Member, State Board of Review**