



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 W Washington St.  
Charleston, WV 25313  
304-746-2360 Ext 2227

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

March 11, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 10, 2008. Your hearing request was based on the Department of Health and Human Resources' action to establish a client error regarding a Supplemental Nutrition Assistance Program (hereinafter SNAP) claim due to excessive assets.

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 SNAP is based on current policy and regulations. Some of these regulations state as follows: Maximum allowable assets for SNAP are Two Thousand Dollars (\$2,000) or Three Thousand Dollars (\$3,000) when at least one (1) Assistance Group member is sixty (60) or older or disabled. (West Virginia Income Maintenance Manual Sections 11.3).

Information submitted at your hearing reveals that your household assets exceed the maximum allowable limit of Two Thousand Dollars (\$2,000) for SNAP.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate your SNAP benefits.

Sincerely,

Jennifer Butcher  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Marshall Daniels, Repayment Investigator

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

-----,

**Claimant,**

**v.**

**Action Number: 08-BOR-2224**

**West Virginia Department of  
Health and Human Resources,**

**Respondents.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair hearing concluded on March 11, 2009 for -----. The 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 10, 2008 on a timely appeal filed September 9, 2008.

**II. PROGRAM PURPOSE:**

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

The purpose of the 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

-----, Claimant's husband

Marshall Daniels, Repayment Investigator

Presiding at the hearing was Jennifer Butcher, 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 took the correct action to terminate the Claimant's SNAP benefits due to excessive assets.

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

West Virginia Income Maintenance Manual Sections 11.2, D, 11.3, 11.4 and 11.5, A, 3

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

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

- D-1 Quality control documentation
- D-2 Request and verification of checking accounts from [REDACTED] Bank dated October 18, 2008
- D-3 Bank statement of balances from the [REDACTED] Bank for the months August through October, 2008
- D-4 Quality control documentation for the case in question dated January 7, 2006.
- D-5 West Virginia Income Maintenance Manual Sections 11.3
- D-6 West Virginia Income Maintenance Manual Section 11.2D
- D-7 West Virginia Income Maintenance Manual Section 20.2
- D-8 SNAP claim determination sheet dated August 18, 2008
- D-9 Notification of SNAP over-issuance dated August 19, 2008

#### **VII. FINDINGS OF FACT:**

- 1) On or around August 18, 2008, the Claims and Collection Unit received a Notice of Potential Error (Exhibit D-1) from the Department's Quality Control Unit which indicates that the Claimant was ineligible for SNAP due to excessive assets. The notice and supporting documentation states that the Quality Control Unit discovered the Claimant, -----, had access to a checking accounts and two (2) certificates of deposit (hereinafter CD's) at [REDACTED] Bank. The balance on the checking account at the beginning of August, 2005 was Two Thousand Seven Hundred and Thirty-Two Dollars and Thirty-Two Cents (\$2732.32); September and October, 2005 Two Thousand Eight Hundred Six Dollars and Forty-One Cents (\$2806.41). The beginning balance of the CD for account number 2168 was Two Thousand Seven Hundred Dollars (\$2,700.00) for the months of August through October, 2005. The beginning balance for account number 3587 on August, September, and October 2005 was Five Thousand Dollars (\$5,000.00). Two CD accounts are under the name of ----- and [REDACTED] Mr. ----- also had a checking account in his name with the balances in August 2005 of One Thousand Eight Hundred thirty dollars and Eighty Cents (\$1,830.80. The beginning balance for September, 2005 was Two Thousand Sixty-Four

Dollars and Fifty-Six Cents (\$2,64.56) and beginning balance for October 2005 was Seven Thousand Six Hundred Ninety-Three Dollars and Seventy Cents (\$7,693.70).

- 2) The Claimant stated that she “does not have the access to the checking account in any way”. She was asked by a family member if it would be alright for her name to be placed on the account “since she lived in the area in case something needed to be done on the cemetery”. The Claimant never received any checks or deposit slips where money was deposited into the account.
- 3) According to the testimony from the repayment officer, the accounts were set up under the name of ----- giving her access to all moneys in the accounts. Testimony from the Claimant stated she was only asked to be placed on the accounts and had no knowledge of how the accounts were set up until this over-issuance occurred.
- 7) West Virginia Income Maintenance Manual Section 11.3 (D-4) states that maximum allowable assets for SNAP are \$2,000. The asset maximum increases to \$3,000 when at least one assistance group member is 60 or older or disabled.
- 8) West Virginia Income Maintenance Manual Section 11.4 (D-4) states that bank accounts, unless otherwise excluded, are counted as assets for SNAP.
- 9) West Virginia Income Maintenance Manual Section 11.5, A, 3 states:

### **3. Jointly Owned Assets**

The treatment of jointly owned assets becomes significant when all the joint owners are not included in the AG. An asset is considered jointly owned when the client has an investment in it or his name appears on it. Also see Section 11.2, D.

#### **a. All Joint Owners Are In The AG**

When all joint owners are in the AG, the total equity is counted, unless one of the joint owners is a WV WORKS or SSI recipient. See item 4 below.

#### **b. All Joint Owners Are Not In The AG**

If all of the joint owners are not in the AG, the asset owned jointly is considered available in its entirety to the AG, unless it can be demonstrated that such assets are inaccessible. If the AG can demonstrate that it has access to only a portion of the asset, the value of that portion is an asset.

- 10) West Virginia Income Maintenance Manual Section 11.2, D states:

### **D. ACCESSIBILITY OF ASSETS**

A client may not have access to some assets. To be considered an asset, the item must be owned by or available to the client and

available for disposition. If the client cannot legally dispose of the item, it is not his asset.

Examples of inaccessibility include, but are not limited to, the following:

- Legal proceedings such as, probate, liens (other than those required for financing the asset). Items encumbered, or otherwise unavailable, due to litigation are not considered assets until the court proceedings are completed and a court decision is reached. The agency is required to follow the dictates of the court order.
- Irrevocable agreements: For WV WORKS and Medicaid, transfers to an irrevocable agreement or trust may result in a penalty. See Section 11.7
- Joint ownership and the meaning of such ownership may be indicated in one of the following ways:
  - **AND** - Joint ownership indicated by “and” between the names of the owners. Unless there is evidence to the contrary, each owner is assumed to own an equal, fractional share of the jointly-owned asset.

If the fractional share of the asset is not available to either owner without the consent of the other, and such consent is withheld, the asset is excluded as being inaccessible. For SNAP benefits only, the consent must be withheld by an individual(s) who is not a member of the client’s AG, in order for the asset to be considered inaccessible.

- **OR** - Joint ownership indicated by “or” between the names of the owners. The asset is available to each owner in its entirety.
- **AND/OR** - Joint ownership indicated by “and/or” between the names of the owners. The asset is available to each owner in its entirety.

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

- 1) Policy reveals that maximum allowable assets for SNAP are \$2,000 or \$3,000 when at least one assistance group member is 60 or older or disabled.
- 2) The Department’s Quality Control Unit discovered that the Claimant is the joint owner of two (2) bank accounts and she and her current husband, ---- are owners of two

- (2) checking accounts with an overall total from all accounts equaling more than Eighteen Thousand Dollars (\$18,000).
- 3) Information recorded by the Quality Control Unit indicates that two (2) CD bank accounts were established in the names of ----- and [REDACTED] and the other checking accounts were in the name of ----- or ---- only indicating they had full access to all the accounts.
- 4) Policy clearly states that joint ownership indicated by “or, and, and/or” between the names of the owners means that the asset is available to each owner in its entirety. While the Claimant does not consider the bank account as her own asset, the account is legally available to her in its entirety.
- 5) The Department acted correctly in terminating the Claimant’s SNAP benefits due to excessive assets.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate the Claimant’s SNAP benefits due to excessive assets.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant’s Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 11th Day of March, 2009.**

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**Jennifer Butcher  
State Hearing Officer**