



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 4, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 23, 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 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 monthly countable household income increased by \$96 when Medicaid started paying your Medicare Premium. Because your monthly countable income increased (the income remaining after all appropriate disregards and deductions are applied), your SNAP benefits decreased from \$65 to \$38 per month effective November 1, 2008.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in reducing your SNAP benefits from \$65 to \$38 per month effective November 1, 2008.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Ann Hubbard, ESS, DHHR

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

-----,

Claimant,

v.

Action Number: 08-BOR-2670

**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 March 4, 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 February 23, 2009 on a timely appeal filed November 7, 2008.

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
Ann Hubbard, ESS, 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 the Department was correct in its action to reduce the Claimant's SNAP benefits effective November 2008.

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 Notice of Decision dated 10/17/08
- D-2 Calculations to determine SNAP benefits for October 2008
- D-3 Calculations to determine SNAP benefits for November 2008
- D-4 WV Income Maintenance Manual, Chapter 10.4

VII. FINDINGS OF FACT:

- 1) On or about October 17, 2008 the Claimant was notified via a Notice of Decision (D-1) that her SNAP benefits were going to be reduced from \$65 to \$38 per month effective November 1, 2008.
- 2) The Department presented evidence to indicate that the Claimant was an active recipient of SNAP benefits and was subsequently approved for the Specified Low Income Medicare Beneficiary (SLIMB) program wherein the Department pays the Claimant's monthly Medicare premium amount of \$96.40 effective June 2008. As a result, the Claimant no longer qualifies for a SNAP medical income deduction and has more disposable income (countable monthly income). Because the Claimant's monthly countable income has increased, SNAP benefits were reduced in accordance with the West Virginia Income Maintenance Manual, Chapter 10.4, Appendix C. Exhibits D-2 and D-3 were submitted to show the income calculations for SNAP benefits in October and November 2008.

- 3) The Claimant contends that a reduction in her SNAP benefits is unwarranted as she does not need medical benefits through Medicare. She indicated that she plans to discuss the matter with the Social Security Administration. While the Claimant disagrees with the reduction in SNAP benefits, she did not make a substantive argument relevant to how policy was incorrectly applied in her case.
- 4) 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 monthly income and number in the benefit group. This policy goes on to say that 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. Among the medical deductions that are allowed is the individual's Medicare premium, except for cases in which the Department is paying the premium [Emphasis added].
- 5) Pursuant to Chapter 10.4 of the WV Income Maintenance Manual, Appendix C – Supplemental Nutrition Assistance Program (SNAP), Basis of Issuance effective October 1, 2008 – An individual with a net adjusted income of \$459.96 per month (see Exhibit D-3) is entitled to receive \$38 per month of SNAP benefits.

VIII. CONCLUSIONS OF LAW:

- 1) The Claimant's monthly countable income (net adjust income) increased by \$96.40 when the Department started paying her Medicare premium through the SLIMB Program in June 2008. Policy confirms that an income deduction can not be given when the Department is paying the Medicare premium. The Claimant was erroneously given the medical deduction of \$96.40 and was awarded \$65 per month in SNAP benefits until the mistake was corrected in November 2008.
- 2) Based on the calculations found in Exhibit D-3, the Claimant's countable monthly income (the income remaining after all allowable deductions and disregards) for the month of November 2008 was \$459.96. According to the WVIMM, Chapter 10.4, Appendix C, a 1-person household with a monthly countable income of \$459.96 is entitled to \$38 of SNAP benefits per month.
- 3) Based on the evidence presented at the hearing, the Department has followed proper procedure in its action to reduce the Claimant's SNAP benefits in November 2008.

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 \$65 to \$38 per month effective November 1, 2008.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 4th Day of March, 2009.

**Thomas E. Arnett
State Hearing Officer**