



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

September 7, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held September 1, 2010. Your hearing request was based on the Department of Health and Human Resources' action to deny your request for the replacement of additional 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 SNAP benefits are based on current policy and regulations. Some of these regulations state that in cases when food purchased with SNAP benefits is destroyed in a household misfortune or disaster, the AG will be eligible for replacement of the actual value of the loss, not to exceed 1 month's allotment. (West Virginia Income Maintenance Manual, Chapter 21.2 and 7 CFR §274.6 - Code of Federal Regulations)

Information submitted at your hearing reveals that while the Department replaced \$50 in SNAP benefits following your original request, there is no policy that would preclude you from asking for an additional replacement (not to exceed 1 month's allotment) if all other eligibility requirements continue to be met. However, because you indicated that your request of \$150 was an overestimate and that your additional loss was between \$70 and \$90 in food, an additional allotment replacement amount of \$80 (an estimate of the actual value lost) is in order.

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying your request for an additional replacement allotment of SNAP benefits. However, the amount (the actual value of the loss) was determined to be \$80.

Sincerely,

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

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

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-1793**

**West Virginia Department of  
Health and Human Resources (WVDHHR),**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**I. INTRODUCTION:**

This is a report of the State Hearing Officer resulting from a fair 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 September 1, 2010 on a timely appeal filed August 13, 2010.

**II. PROGRAM PURPOSE:**

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, ESS, WVDHHR

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

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct in its decision to deny the Claimant's request for an additional SNAP replacement allotment.

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

West Virginia Income Maintenance Manual, Chapter 21.2  
7 CFR § 274.6 - Code of Federal Regulations

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

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

- D-1 Case Comments from RAPIDS for period August 9, 2010 through August 17, 2010
- D-2 Application for Emergency Assistance received on August 9, 2010
- D-3 Department's written testimony submitted by Mark Paree
- D-4 WVIMM, Chapter 21.2

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

- 1) On August 9, 2010 the Claimant completed an application for Emergency Assistance (D-2) with utilities and requested an auxiliary (replacement allotment) of SNAP benefits due to a loss of food following a power outage.
- 2) According to Mark Paree, and Economic Services Supervisor with the West Virginia Department of Health and Human Resources, hereinafter Department, the Claimant reported she lost food purchased with SNAP benefits when it spoiled during the power outage. Because the Claimant met the eligibility requirements, a \$50 replacement allotment was added to her EBT card - the actual value of the food reported to have been lost by the Claimant.
- 3) On August 11, 2010 the Claimant contacted the Department and indicated she had some additional food (meat) that was spoiled and requested an additional \$150 replacement allotment – thus equaling the maximum amount that could be replaced. The Department reported that the SNAP replacement for the original \$50 was completed on August 9, 2010 and advised the Claimant that a second request for a SNAP replacement allotment could not be granted.
- 4) The Claimant testified that she had put meat in a cooler under ice and did not realize that it had gone bad until later when she went to cook it. When asked to explain the actual value of the meat that spoiled, the Claimant testified that she may have overestimated the actual value and indicated it was realistically worth between \$70 and \$90.

- 5) WV Income Maintenance Manual, Chapter 21.2, states that in cases when food purchased with SNAP benefits is destroyed in a household misfortune or disaster, the AG (Assistance Group) will be eligible for replacement of the actual value of the loss, not to exceed 1 month's allotment if:

- The loss is reported within 10 days of the incident; and
- The AG's misfortune or disaster is verified; and
- The DFA-FS-36 is completed and signed within 10 days of the report of the loss.

A misfortune or disaster such as, but not limited to, fire or the loss of power may affect an individual household. A natural disaster may affect either an individual household or more than 1 household.

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

- 1) The regulations state that when food purchased with SNAP benefits is destroyed in a household misfortune or disaster, the AG will be eligible for replacement of the actual value of the loss, not to exceed 1 month's allotment if the loss is reported within 10 days, the disaster is verified and the DFA-FS-36 is completed and signed within 10 days of the reported loss.
- 2) A review of the evidence reveals that the Claimant's second request for a SNAP replacement allotment met the eligibility guidelines. There is nothing in policy that prohibits multiple requests for benefit replacement, so long as the loss is reported within 10 days, the disaster is verified, the DFA-FS-36 is completed and signed within 10 days of the reported loss and the requested amount does not exceed 1 month's allotment.
- 3) Whereas the Claimant testified the actual value of the additional food lost as a result of the power outage was between \$70 and \$90, a SNAP benefit replacement amount of \$80 is appropriate.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying your request for an additional replacement allotment of SNAP benefits. However, the amount (the actual value of the loss) is \$80.

### **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ Day of September, 2010.**

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**Thomas E. Arnett**  
**State Hearing Officer**