



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General**

**Joe Manchin III
Governor**

**Board of Review
P.O. Box 1736
Romney, WV 26757**

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

October 28, 2010

-----and -----

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 6, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your Supplemental Nutrition Assistance Program or 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 for SNAP is based on current policy and regulations. These regulations provide that the method used in determining monthly gross income from self-employment varies with the nature of the enterprise. Gross profit from self-employment is the income remaining after deducting any identifiable costs of doing business from the gross income. Allowable deductions include, but are not limited to employee labor costs, stock and supplies, raw material, seed, fertilizers, repair and maintenance of machinery and/or property, cost of rental space, insurance premiums and taxes paid on business and income-producing property, utilities, principal, interest and taxes for the client's residence which is used in part to produce income. Non-allowable deductions for the SNAP program include federal, state, or local income taxes, money set aside for retirement, travel from home to a fixed place of business and return, depreciation, amounts claimed as a net loss (West Virginia Income Maintenance Manual Chapter 10.4)

The information which was submitted at your hearing revealed that your home is your fixed place of business and you travel outside of your home to conduct business; therefore, you are eligible to receive travel related expenses in the determination of your countable self-employment income.

It is the decision of the State Hearing Officer to Reverse the action of the Department to reduce your SNAP assistance.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Daniel Pyles, Economic Service Supervisor

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

-----and -----,

Claimants,

v.

Action Number: 10-BOR-1889

**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 for -----and ----- . 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 October 6, 2010 on a timely appeal, filed September 2, 2010.

It should be noted here that the Claimant's benefits under the SNAP program continue at the previous level of determination pending a decision from the State Hearing Officer.

II. PROGRAM PURPOSE:

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

-----, Co-Claimant

Daniel Pyles, Economic Service Supervisor

Presiding at the hearing was Eric L. Phillips, State Hearing Officer and a member of the 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 reduce the Claimants' SNAP benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 10.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 West Virginia Income Maintenance Manual Chapter 10.4
- D-3 Notice of Decision dated June 3, 2010
- D-4 Notification letter dated July 12, 2010
- D-5 Notification letter dated August 11, 2010
- D-6 Income verification dated June 22, 2010
- D-7 United State Individual Income Tax Return 2009 Form 1040

Claimants' Exhibits:

- C-1 Income information submitted August 23, 2010
- C-2 Mileage calculation dated August 13, 2010

VII. FINDINGS OF FACT:

- 1) The Claimants completed a Supplemental Nutrition Assistance Program, hereinafter SNAP, recertification for the determination of their continued eligibility for benefits. The Claimants reported self-employment income, in addition to Social Security benefits, and presented Exhibit D-7, United States Individual Income Tax Return 2009 Form 1040, to verify self-employment earnings. Exhibit D-7 documents the Claimants' 2009 gross receipts or sales from their self-employment as \$7664.00 and 2009 total expenses as \$10073.50.
- 2) Daniel Pyles, Economic Service Supervisor testified that the Economic Service Worker (ESW) conducting the Claimants' recertification questioned the Claimants allowable expenses for self-employment. Mr. Pyles stated that after a review of self-employment policy, it was concluded that expenses for vehicle repair and meal or travel reimbursements are not an allowed expenses for the SNAP program.
- 3) On June 3, 2010, the Department issued the Claimant Exhibit D-3, Notice of Decision concerning the approval of SNAP benefits from the recertification. Exhibit D-3 documents in pertinent part:

Your application for SNAP dated 4/29/10 has been approved.

Your benefit for 6/1/10 through 6/30/10 will be \$85.00

Reason: Your assistance group met all eligibility requirements.

- 4) The Claimants testified that they contacted the Department's Client Services division and were informed that travel expenses could be used in the determination of the countable income from self-employment. The Claimants indicated that they began a log of all mileage and presented Exhibit C-2, Mileage Calculation which documents a \$4447.30 (8086 miles at .55 cents per mile) mileage calculation for a 2009 business deduction. This documentation also lists an additional deduction of \$2205.00 for a total deduction of \$6642.30.

The Claimant submitted Exhibit C-1, Income Information dated August 23, 2010 to demonstrate the total work related deductions from Exhibit C-2 minus their total income of \$5720.00 from their business resulted in a total loss of \$922.00. Also, this exhibit documents in pertinent part:

In the past years our self-employment income has been a loss. The only countable income has been our social security and SSI. The only change now will be an increase of \$64.00.

The Claimants indicated that although they do not claim their home as a business deduction, they store all of their equipment in their home and work out of their home. The Claimants indicated that when they leave the home to conduct business, they incur traveling expenses. The Claimants purported that if the Department calculated all of the countable deductions, including traveling expenses, the result is a negative income amount and no self-employment income should be attributed to their SNAP calculation.

- 5) West Virginia Income Maintenance Manual Chapter 10.4 documents in pertinent part:

Gross profit from self-employment is the income remaining after deducting any identifiable costs of doing business from the gross income.

Deductions

Examples of allowable deductions include, but are not limited to:

- Employee labor cost, including wages paid to an AG member and any salary the client pays himself. When paid to an AG member, the income to be considered according to the provisions in Section 10.3, CC
- Stock and supplies
- Raw material
- Seed
- Fertilizers
- Repair and maintenance of machinery and/or property
- Cost of rental space used for conducting the business

-Payments on the principal and interest of the purchase price of income-producing real estate and capital assets, equipment, machinery and other durable goods

-Insurance premiums and taxes paid on the business and income-producing property

-the utilities, principal, interest and taxes for the client's residence which is used in part to produce income. This is applicable only if the cost on the portion of the home used in the self-employment enterprise can be identified separately. The total deduction given for shelter and/or cost of doing business must not exceed the actual cost

-Advertising cost

-Utilities

-Office expenses, such as stamps, stationery, etc.

-Legal cost

-Net loss from self-employment farming

Do not deduct the following:

-Federal, State or local income taxes

-Money set aside for retirement

-travel from home to a fixed place of business and return

-Depreciation

-Amounts claimed as a net loss, except loss from farming self-employment.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that the gross profit from self-employment income is derived from deducting the identifiable cost from doing business from the total gross income of the business. Policy stipulates that federal, state, or local income taxes, money set aside for retirement, travel expenses from home to a fixed place of business, depreciation, and amounts claimed as a net loss cannot be considered as a deduction when determining an individual's gross profit.
- 2) Testimony revealed that the Claimants operate a housekeeping business out of their home and travel to various work sites to conduct business. Although the Claimants may travel to regular and consistent work sites to conduct business, their home is to be considered the fixed place of

business and travel expenses to conduct business are appropriate in the determination of countable self-employment income.

- 3) Based on the evidence and testimony presented during the hearing, the Department was incorrect in removing travel expenses from the calculation of the Claimants' countable self-employment income.

IX. DECISION:

It is the decision of the State Hearing Officer to reverse the decision of the Department to remove car/truck expenses from the calculation of the Claimants' countable self-employment income.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ day of October 2010.

Eric L. Phillips
State Hearing Officer