



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Joe Manchin III
Governor

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

May 5, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 29, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to deny your Supplemental Nutrition Assistance Program (SNAP) review application dated December 17, 2009.

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 are based on current policy and regulations. Some of these regulations state that policy requires routine verification of specific information. The client is expected to provide information to which he has access and to sign authorizations needed to obtain other information. Refusal to cooperate may result in denial of the application. (West Virginia Department of Health and Human Resources (WVDHHR) Income Maintenance Policy Manual §4.1)

The information submitted at your hearing reveals that after applying for continued SNAP on December 17, 2009 you failed to return necessary income verification needed to determine your eligibility for SNAP.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your SNAP review application dated December 17, 2009 which resulted in termination of your SNAP effective February 2010.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Tera Pendleton, [REDACTED] DHHR

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

-----,

Claimant,

v.

Action Number: 10-BOR-727

**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 ----- . 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. The fair hearing was convened on April 29, 2010 on a timely appeal filed January 14, 2010.

It should be noted that the Claimant's SNAP benefits were continued pending the outcome of this hearing.

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
Tamara Smith, Department Representative

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in its decision to deny the Claimant's December 17, 2009 review application for continued benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual §4.1, 10.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Combined Application Form (CAF) dated December 17, 2009 and supporting forms
- D-2 Rights and Responsibilities forms signed December 17, 2009
- D-3 RAPIDS computer screens
- D-4 Verification Checklist letter to Claimant dated December 17, 2009\
- D-5 Medical Bills
- D-6 Notification letter dated January 7, 2010
- D-7 West Virginia Income Maintenance Manual Section 4.1

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was actively receiving SNAP, formerly known as Food Stamps, during the month of December 2009 when the Department conducted a review interview (D-1) on December 17, 2009 to determine continued eligibility for SNAP.
- 2) The Claimant reported continued earned income from her husband's employment during the review interview and the Department "pended" the application, requesting that the Claimant provide certain verifications in order to establish continued eligibility. The Department gave the Claimant a Verification Checklist letter (D-4) which stated the following pertinent information:

This is to inform you that the information listed below is needed to establish your eligibility for: SNAP

If this information is not made available to this office by 12/27/09 your eligibility for benefits and/or deductions cannot be established or continued.

HOUSEHOLD INFORMATION NEEDED:

INDIVIDUAL INFORMATION NEEDED:

----- [REDACTED]

EMPLOYMENT INCOME

Proof of gross earned income, such as paystubs/employer statement.

If we do not receive the above information at the local office address above by 12/27/09 and your SNAP application is denied, you may still provide the information to the DHHR within 60 days of the date of your application. Your eligibility for SNAP benefits will be determined and you will not have to make another application.

- 3) The Department representative, Tamara Smith, provided that the case worker explained to the Claimant that the Department needed verification of -----prior thirty (30) days pay. The Claimant testified that she understood that the Department needed that particular timeframe; however, she was having difficulty obtaining the income verification from his employer. She stated that her husband does not keep up with his paystubs so she was required to rely on his employer to provide the information. She added that when she contacted the employer he informed her he was unable to provide the verification at that time due to complications; however, he told her he would be able to provide the information within two weeks. She provided the Department with a letter from the employer which included the following information:

December 20, 2009

To Whom It May Concern:

----- is currently employed at the [REDACTED] Restaurant in [REDACTED] WV. He is employed as a server with a pay rate of \$2.13/hour plus tips. He currently averages approximately \$125.00 per week with wages and tips. If you have any questions or concerns about this, please feel free to contact me.

The letter is signed by the General Manager for [REDACTED] Although the Department did receive the above letter, it contends that the Claimant never provided verification from the employer to show that there would be a short delay in providing the information. The Department provided that the letter from the employer was unacceptable as income verification because the individual had been working for the company for some time.

- 4) The Claimant testified that she received the information from the company about her husband's pay for that time period in March 2010. In addition, she never provided the Department with the verification.

- 5) The Department contends that the Claimant had until February 25, 2010 in order to provide the needed income verification. She never returned it. The Department contends it was correct to terminate her SNAP effective February 2010 for failure to cooperate in establishing eligibility.
- 6) The Claimant contends that she cooperated to the best of her ability, and the Department should not have terminated her SNAP as a result.
- 7) The West Virginia Income Maintenance Manual §4.1 states in pertinent part:

It is an eligibility requirement that the client cooperate in obtaining necessary verifications. The client is expected to provide information to which he has access and to sign authorizations needed to obtain other information.

Depending upon the program and the item or requirement for which verification is requested, refusal to cooperate may result in denial of the application.

CLIENT RESPONSIBILITY

The primary responsibility for providing verification rests with the client. Failure of the client to provide necessary information or to sign authorizations for release of information, results in denial of the application or closure of the active case, provided the client has access to such information and is physically and mentally able to provide it.

WORKER RESPONSIBILITIES

The worker has the following responsibilities in the verification process:

- If the client is unsuccessful in obtaining information, or, if physical or mental limitations prevent his compliance, and there is no one to assist him, the Worker must obtain the verification.

- 8) The West Virginia Income Maintenance Manual §10.4 states in pertinent part:

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP)

A. BUDGETING METHOD

Eligibility is determined and benefits are issued on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period.

Use past income only when both of the following conditions exist for a source of income:

- Income from the source is expected to continue into the certification period; and

- The amount of income from the same source is expected to be more or less the same.

Use future income when either of the following conditions exist for a source of income:

- Income from a new source is expected to be received in the certification period; or
- The rate of pay or the number of hours worked for an old source is expected to change during the certification period.

Note: For these purposes, a new source of earned income means income from a different employer. Income that normally fluctuates does not require use of future income. Future income is used for old sources only when the hourly, weekly, monthly, etc. rate of pay changes or the number of hours worked during a pay period increases or decreases permanently.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that past income is to be used in calculating monthly income from an old source when there has been no change in that source. Future income, such as that from an employer statement which anticipates income, is used for old sources only when the hourly, weekly, monthly, etc. rate of pay changes or the number of hours worked increases or decreases. The income source in question was from an old source with no change in rate of pay or number of hours; therefore, the past income (income from past 30 days) requested by the Department was appropriate per policy.
- 2) Policy also provides that the client has a responsibility to cooperate in obtaining necessary verifications. The primary responsibility for providing verification also rests with the client. The evidence shows the Claimant did not cooperate by providing the necessary income verification. Although there was testimony from the Claimant about a delay in access to the verification, the evidence is not sufficient to show that the Claimant was unable to provide the income verification timely.
- 3) The Department was correct in its decision to terminate the Claimant's SNAP effective February 1, 2010 due to failure to provide necessary verifications.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to terminate the Claimant's SNAP eligibility effective February 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 5th Day of May, 2010.

**Cheryl Henson
State Hearing Officer**