



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

March 25, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 25, 2010. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your Supplemental Nutrition Assistance Program (SNAP) effective March 1, 2010 due to excessive total monthly net income.

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 the maximum allowable total monthly net income for a one (1) person AG is nine hundred three dollars (\$903.00) (WVDHHR Income Maintenance Manual Appendix A, Chapter 10) Also, in determining eligibility at application, the Department will consider future income when income from a new source is expected to be received in the certification period. (WVDHHR Income Maintenance Manual Section 10.4.A.1)

The information submitted at your hearing reveals that the Department verified during the application process in January 2010 that you were scheduled to begin receiving widow's benefits from Social Security beginning March 17, 2010. The Department was then able to act on this information as a change. The Department incorrectly terminated your SNAP eligibility effective March 1, 2010. This income affects your case as a change and is effective against your SNAP April 1, 2010. As a result, effective April 1, 2010 your income exceeded the income guidelines for SNAP rendering you ineligible for the program.

It is the decision of the State Hearing Officer to **reverse** the action of the Department in terminating your SNAP eligibility effective March 1, 2010 due to excessive income. The Department is required to reimburse you for your March 2010 SNAP.

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-778

**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. This fair hearing was convened on March 25, 2010 on a timely appeal filed January 28, 2010.

It should be noted that the Claimant's SNAP was not 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

Tera Pendleton, Income Maintenance Specialist, 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 terminate the Claimant's SNAP effective March 1, 2010 due to excessive income.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual §§ Appendix A, Chapter 10, 2.2.B, 3.3.C.2 (b), 10.4.c.1, 10.4.A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case comments from RAPIDS computer system
- D-2 Verifications provided by Claimant at January 5, 2010 application
- D-3 RAPIDS computer screen WV State Online Query dated March 25, 2010 and other screens
- D-4 Notification letter dated January 25, 2010
- D-5 RAPIDS computer screen SNAP Issuance History dated March 25, 2010
- D-6 WV Income Maintenance Manual Section 10.4

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant applied for SNAP, formerly known as Food Stamps, on January 5, 2010 at which time she reported that she is sixty (60) years old, lives alone and is not disabled. She also reported that she is employed at [REDACTED] and provided her pay stubs for the past thirty (30) days. She also reported she receives a pension in the amount of one hundred twenty three dollars and forty seven cents (\$123.47). She reported she is paying two mortgages on her home as well as utilities. The Department worker recorded in her case comments (D-1) that she checked the computer screens for additional verifications, including SOLQ (State On-Line Query), which is a cross match for income information from Social Security, and nothing was reportedly found.
- 2) The [REDACTED] County Department of Health and Human Resources has set in place a quality review unit consisting of Income Maintenance Workers who review applications prior to approval to determine the accuracy of the case information. The unit, called the "Reader Unit," reviewed this case on January 14, 2010 and determined (D-1) that the SOLQ computer screen (D-3) now showed that the Claimant will receive one thousand five hundred thirty three dollars (\$1533.00) from Social Security as a widow's benefit. The Department's hearing representative, Tera Pendleton, testified that the Reader Unit contacted the Social Security Administration and verified that the payment would not be received by the Claimant until March 17, 2010.

- 3) The Department subsequently approved the SNAP without counting the widow's benefit income, but then on January 25, 2010 sent the Claimant a notification letter (D-4) informing her that her SNAP would stop effective March 1, 2010 due to the expected receipt of this new income on March 17, 2010.
- 4) The Department contends that because the new income source was found prior to her January 2010 approval it is correct to count the income in determining the Claimant's March 2010 SNAP eligibility.
- 5) The Claimant contends that she was eligible for SNAP in March 2010 because she did not receive the new income until March 17, 2010, and purports that her SNAP eligibility should have ended effective April 1, 2010. She does not dispute the computations of her earned income or any other aspect of this case. The only area of dispute between the parties is the month of termination.
- 6) The West Virginia income Maintenance Manual §10.4.C.1 states in pertinent part:

C. DETERMINING ELIGIBILITY AND BENEFIT LEVEL

1. Determining Eligibility

- When at least one AG member is elderly, which is at least age 60, or disabled as specified in Section 12.15, B. eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. There is no gross income test.

- 7) The West Virginia Income Maintenance Manual §10.4.A states in pertinent part:

10.4 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. The following applies to earned and unearned income

For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the AG. For all cases, income is projected*; past income is used only when it reflects the income the client reasonably expects to receive.

- 8) The West Virginia Income Maintenance Manual § 2.2.B states in pertinent part:

B. REPORTING REQUIREMENTS

1. Limited Reporting

Once approved, all AGs must report when the total gross earned and unearned income of the AG and all other individuals who reside with the AG exceeds the AG's gross income limit. This must be reported no later than the 10th calendar day of the month following the month in which the change occurs.

No other changes are made for these AGs unless the information is reported by an AG member, comes from a source which is verified upon receipt, or from a source which is considered reported.

2. Decrease in Benefits

When the reported change results in a decrease in benefits, the change is effective the following month, if there is time to issue advance notice. If not, the change is effective 2 months after it occurs.

9) The West Virginia Income Maintenance Manual §3.3.C.2(b) states in pertinent part:

b. State On-Line Query (SOLQ)

SOLQ provides direct access to SSA's databases. Information received includes SSN verification and SSI and RSDI details. Requests can be made only for individuals known to RAPIDS within the previous 5 years.

This information is not considered verified upon receipt for SNAP, but is not subject to independent verification.

10) The West Virginia Income Maintenance Manual Chapter 10, Appendix A shows that the maximum total net income limit for a household consisting of one (1) individual is nine hundred three dollars (\$903.00). The Claimant does not dispute that her countable income exceeded this amount beginning during the month of March 2010.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that at the time of application, if an AG is expected to receive income from a new source during the certification period, this income is to be considered. Policy also dictates that once the case is approved, reported changes are effective the following month after the change occurs when there is time to issue advance notice.
- 2) There is no question that the Claimant's March 2010 income exceeded the income guidelines for SNAP.
- 3) There is no evidence to suggest the Claimant was aware at the time of her January 5, 2010 SNAP application that she would receive the widow's benefit beginning in March 2010. The evidence suggests that the Department checked computer screens on this date and the information was not listed at that time.

- 4) The evidence supports that the Department became aware of this information on January 14, 2010, after the Claimant's interview but before approval of SNAP.
- 5) The Department was correct in its determination that the expected new source of income was to be considered during the certification period; however, it was not correct to make the change effective March 1, 2010. The Claimant's income became excessive in March 2010; therefore, the change is effective April 1, 2010. The Department, having prior knowledge of the anticipated change, had time to send the adverse action notice at the beginning of March 2010 allowing for timely notice of the decrease.
- 6) The Department was not correct in its decision to terminate the Claimant's SNAP effective March 1, 2010.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the proposed action of the Department to terminate the Claimant's SNAP eligibility effective March 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 29th Day of March, 2010

**Cheryl Henson
State Hearing Officer**