



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

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

**Earl Ray Tomblin
Governor**

**Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary**

August 24, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held August 16, 2011. Your hearing request was based on the Department of Health and Human Resources' failure to act upon a reported change to your household income in November, 2010.

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 changes in an assistance group's benefit amount are effective the month following the month in which a change is reported. Lost benefits are restored when it is determined that the change was reported in a timely manner. (West Virginia Income Maintenance Manual Chapter 2.2)

The information which was submitted at your hearing failed to support that you reported a change in your household income in November, 2010; therefore, you are not eligible for a retroactive SNAP increase to your benefit amount for December, 2010 through June, 2011.

It is the decision of the State Hearing Officer to Uphold the action of the Department to increase your SNAP benefits effective July, 2011.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review
Ann Hubbard, Economic Service Supervisor

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-1525

**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 a timely appeal, filed June 21, 2011.

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
-----, Claimant's witness and mother
Ann Hubbard, 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 increase the Claimant's SNAP benefits effective July, 2011.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Policy Chapter 2.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Computer printout of case comments
- D-3 Computer printout of data exchange response list
- D-4 Notice of Decision dated June 8, 2011
- D-5 West Virginia Income Maintenance Manual 2.2

Claimants' Exhibits:

- C-1 West Virginia Children's Health Insurance Program eligibility recertification dated June 3, 2011
- C-2 Hearing Request

VII. FINDINGS OF FACT:

- 1) On June 7, 2011, the Claimant returned Exhibit C-1, West Virginia Children's Health Insurance Program as a recertification review for her son's Medicaid benefits. The exhibit documents pre-printed income for the Claimant's household of \$171.00 in Social Security Disability-Child for -----(Claimant's son), \$1000.00 in Social Security Retirement income for ---- (Claimant's mother), \$17.00 for Supplemental Security Income (SSI) for the Claimant and \$677.00 for Social Security Retirement for the Claimant. It shall be noted that the Claimant documented on Exhibit C-1, that her son's Social Security income of \$171.00 ended effective November 3, 2010.
- 2) Ms. Ann Hubbard, Economic Service Supervisor testified that she met with the Claimant on June 7, 2011, when the Medicaid recertification review was returned to the Department. Ms. Hubbard indicated that the Claimant informed her that her son had not received Social Security income since November, 2010 and that she had reported the income change on two different occasions in November, 2010. Ms. Hubbard indicated that was no recorded information in the Claimant's case file that supported the Claimant's claim that the income change had been reported. Ms. Hubbard added that she researched a receptionist register log for the Department to October, 2010, the month prior to the Claimant's claim, which did not document that the Claimant had submitted any documentation concerning the change to the Department.

- 3) Ms. Hubbard stated that she evaluated data exchange information (Exhibit D-3), after meeting with the Claimant in June, 2011. This exhibit documented that May, 2010 was the last reported exchange of information between the Social Security Administration and the Department. Additionally, Ms. Hubbard indicated that she evaluated additional data exchange information that indicated that -----Social Security income ended effective November, 2010. Upon discovery of such information, Ms. Hubbard removed the income from the Claimant's SNAP income calculation, resulting in an increase to the Claimant's SNAP benefits of \$233.00 to \$310, effective July 1, 2011.
- 4) On June 8, 2011, the Department issued the Claimant Exhibit D-4, Notice of Decision informing her of the increase to her SNAP benefits. Exhibit D-4 documents in pertinent part:

Your SNAP benefits will increase from \$233.00 to \$310 effective 7/1/11

Reason: Income decreased.

-----Income decreased. \$171.00

You must contact this office and report if your total household income increases to more than \$1579.00 per month. Gross income is the amount of all unearned income received in a month, plus the amount of earned income before any taxes or other withholdings are taken out. This includes the income of all individuals who live in your home, whether or not they are included in your SNAP benefit case.

- 5) The Claimant is seeking relief of a retroactive SNAP increase for the months of December, 2010 through June, 2011. The Claimant stated that her son's Social Security income was terminated effective November 3, 2010 and she reported this change to the Department on multiple occasions; however, she does not recall the worker to which she reported the information. The Claimant indicated that she reported the income prior to the termination, but was informed by the Department that she could not report the change until Social Security initiated the change. The Claimant stated that she was unaware that the Department was continuing to apply her son's Social Security income of \$171.00 against her SNAP calculation until she received Exhibit C-1, on June 12, 2011 and believes she is owed a back payment of SNAP benefits and that she should not be penalized for the Department's failure to act upon the information in which she reported. The Claimant submitted Exhibit C-2, Hearing Request which reads in pertinent part:

The only income we have for my son and I is \$17.00 SSI and \$677.00 Soc. Sec. That is my disability income. My son has not gotten SSI for a very long time. The last time my son got \$171.00 Soc. Sec. was Nov. 3, 2010. We have not had any other income for a very long time!!!!!!![sic] Last year when my son's 171.00 Soc. Sec. check ended on Nov. 3, 2010 I reported this change of income twice in person at DHHR!!!!!!![sic] On June 12, 2011 I got a letter from DHHR stating that we would be getting way more food stamps per month since they're no longer counting his \$171.00 Soc. Sec. from last year. DHHR has

been counting this income all this time since last year and yet I reported it last year twice in person that it stopped. **So it seems as though we've gotten cheated out of hell of a lot of food stamps since last year!!!!!![sic] We should've been getting way more food stamps all this time!!!!!![sic] I demand to get back payment on the food stamps that we didn't get because DHHR failed to remove his income from the system when I reported it in person twice last year when his income came to a stop.**

6) West Virginia Income Maintenance Manual Chapter 2.2 documents in pertinent part:

2. Changes Acted On For SNAP AG's

Action must be taken for all AG's when information is received from a source that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the primary source of the information. The only sources considered verified upon receipt are:

- BENDEX and SDX from SSA
- COLA Mass Change and reports in Appendix B
- SAVE from INS and 40 Qualifying Quarters information from SSA
- Unemployment Compensation from WV BEP data exchange
- SNAP E&T's information that a client did not comply with work requirements
- IFM's determination of an IPV
- Notification of application for benefits in another state

b. Changes Which are Considered Reported

The following are considered reported changes for SNAP and require follow-up and/or action for all AG's.

Communication from an AG member, such as an office visit, telephone call or written statement to report a change for any program of assistance in RAPIDS; or

Communication from the AG's documented authorized representative and/or authorized EBT cardholder on behalf of the AG. See Sections 1.4,E and 1.4,T. This does not include SSI/RSDI payees, unless they are also the authorized representative or EBT cardholder.

Changes reported during an application for burial assistance or an application or redetermination for any program of assistance, including SNAP benefits, which is entered in RAPIDS and includes an AG member.

Information received on behalf of a client that results in changes being made in RAPIDS for another program of assistance.

Information received from any source which the client was required to report for his SNAP benefits.

4. Timely Reporting And Follow-Up

To determine if a claim must be established or a lost benefit restored, a decision must be made as to whether or not a change was reported in a timely manner. **NOTE:** Regardless of SNAP reporting requirements, when a client fails to report household expenses which would normally result in a deduction, the AG loses their entitlement to that deduction. They have a right to the expense once it is reported and verified, if necessary. Retroactive benefits are not issued.

Reported changes are not effective the month they are reported. See item C below to determine when a reported change is effective.

When the client does not report in a timely manner and the change could have been made earlier, a claim may be established. See Chapter 20.

Benefits are not restored when the change which would have increased benefits is not reported within the AG's appropriate time limit.

C. AGENCY TIME LIMITS

The first month that a reported change is effective is the month following the month the change is reported. The only exception to this is when the Department had the information prior to the month it is reported and failed to act on the information in a timely manner.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that lost benefits are restored when it is determined if a change was reported in a timely manner. The first month that a reported change is effective, is the month following the month the change is reported.
- 2) The Department discovered in June, 2011, that the Claimant's son's Social Security income had terminated in November, 2010 and increased the Claimant's SNAP benefits effective July, 2011. The Claimant claimed that she reported the change in her son's income, the effective month of the termination, but the Department failed to initiate the change which resulted in an inadequate SNAP benefit amount to the household for the months of December, 2010 through June, 2011.
- 3) While the Claimant maintains she reported the change in income to the Department in November, 2010, there was no evidence provided during the hearing to support the fact that she reported the information to the Department in a timely manner. The Department initiated the change in June, 2010, when it became aware of the documented change to the household's income.

- 4) The Department's decision to increase the Claimant's SNAP benefits effective July, 2011 is affirmed; therefore, the Claimant is not eligible for a retroactive SNAP increase from December, 2010 to June, 2011.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the action of the Department to increase the Claimant's SNAP benefits effective July, 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ day of August, 2011.

Eric L. Phillips
State Hearing Officer