



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

Earl Ray Tomblin  
Governor

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

February 28, 2012

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Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held February 28, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your SNAP benefits effective February 2012.

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 the Supplemental Nutrition Assistance Program [SNAP] are based on current policy and regulations. Some of these regulations state that information received from COLA [Cost of Living Adjustment] Mass Change reports are acted on for all AGs [Assistance Groups]. [West Virginia Department of Health and Human Resources Income Maintenance Manual §2.2.B.2 (a)]

The information submitted at your hearing supports that your monthly social security disability benefits increased by \$36.00 to \$1029.00 in January 2012 based on a Cost of Living Adjustment [COLA] provided to all social security recipients. There is no provision in policy to prevent SNAP benefit decreases because of cost of living adjustments received from the government.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in reducing your SNAP benefits based on this change which resulted in more countable income for your household.

Sincerely,

Cheryl Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review /Tera Pendleton, Kanawha DHHR

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

**IN RE:**       -----,

**Claimant,**

**v.**

**ACTION NO.: 12-BOR-499**

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on February 28, 2012.

**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  
Kristi Peterson, Department representative

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

It should be noted that the hearing was conducted by conference call.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether the Department was correct in its decision to reduce the Claimant's SNAP benefits effective February 2012.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual § 2.2.B.2(a)

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

**Department's Exhibits:**

- D-1 Case Comments from Department's computer system
- D-2 Unearned Income computer screen print from Department's system
- D-3 Food Stamp Allotment Determination screens from Department's computer system
- D-4 Notification letter dated January 9, 2012
- D-5 West Virginia Income Maintenance Manual §2.2

**Claimant's Exhibits:**

None

**VII. FINDINGS OF FACT:**

- 1) The Claimant was actively receiving SNAP benefits during January 2012 when the Department determined that her household had received a cost of living adjustment, hereinafter COLA, increasing her social security disability benefits by \$36.00 to \$1029.00. The Department sent the Claimant a notification letter (D-4) on or about January 9, 2012 which included the following pertinent information:

ACTION: Your SNAP will decrease from \$107.00 to \$91.00 effective 02/01/12.

REASON: Your income has increased.

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Your income has increased                \$36.00

- 2) The Department contends that it acted properly by increasing the Claimant's countable income to \$1029.00 based on her receipt of a COLA from social security during January 2012.

- 3) The Claimant does not dispute that her income increased by \$36.00 to \$1029.00 in January 2012 based on a COLA; however, she stated that it is not correct for the Department to reduce her SNAP benefits because of this COLA. She stated that the cost of food has increased and that the Department has taken away the small increase she received in income by reducing her SNAP from \$107 monthly to \$91.00 monthly. This resulted in a \$16.00 difference in SNAP benefits. The Claimant stated that policy should not allow the Department to reduce SNAP benefits based on increased income from a COLA.
- 4) The West Virginia Department of Health and Human Resources Income Maintenance Manual §2.2.B.2 (a) states in relevant part:

2. Changes Acted On For SNAP AGs

- a. Information Verified Upon Receipt

Action must be taken for all AGs 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

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

- 1) Policy stipulates that information provided regarding mass changes or COLA [Cost of Living Adjustments] must be acted upon by the Department. There is no provision in policy to allow the Department to refrain from acting on this information and reducing SNAP benefits when an individual receives an increase in income from a COLA
- 2) The totality of the evidence supports that the Claimant's social security disability benefits increased during January 2012 by \$36.00 to \$1029.00 based on a COLA. The Claimant did not dispute this fact.
- 3) The Claimant's argument was that the Department should not decrease her SNAP benefits as a result of this increase because the cost of food has increased. There is no policy that would allow the Department to disregard this income.
- 4) Based on the information provided during this hearing, the Department was correct in its decision to reduce the Claimant's SNAP benefits based on her increased income from a COLA.

**IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the action of the Department in reducing the Claimant's February 2012 SNAP benefits based on her increased income from a COLA.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 28<sup>th</sup> Day of February, 2012.**

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**Cheryl Henson  
State Hearing Officer**