



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 2590
Fairmont, WV 26555-2590

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

September 12, 2005

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 30, 2005. Your hearing request was based on the Department of Health and Human Resources' action to reduce and close your Food Stamp benefits based on medical deductions and assets, and the Department's proposal to close your Medicaid (QMB) benefits based on excessive assets.

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 the Food Stamp Program is based on current policy and regulations. Some of these regulations state as follows: Eligibility for Food Stamps and the amount of the Food Stamp allotment are based on a determination of countable household income (that income remaining after all appropriate disregards and deductions are applied) and the number of individuals in the Food Stamp benefit group. The asset limit for the Food Stamp Program for a one (1) person Assistance Group (AG) who is age 60 or over is \$3,000 and the maximum allowable asset limit for the QMB Medicaid Program for an AG of one (1) is \$4000. (West Virginia Income Maintenance Manual ' 10.4,C, & 11.3 and 7 CFR 273.9- Code of Federal Regulations)

The information which was submitted at your hearing fails to demonstrate that your Food Stamp and Medicaid benefits should have been reduced or closed.

It is the decision of the State Hearing Officer to **reverse** the action of the Department to reduce or close your Food Stamp and Medicaid (QMB) benefits.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Leslie Riddle-Deem, ESW, DHHR

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

_____,
Claimant,

v.

Action Number: 05-BOR-____, ____ & ____

**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 concluded on September 12, 2005 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 August 30, 2005 on a timely appeal, filed June 10, 2005 and again on July 11, 2005.

It should be noted here that the claimant's Medicaid benefits have continued pending a hearing decision. Food Stamp benefits were discontinued at the request of the Claimant.

II. PROGRAM PURPOSE:

The Food Stamp and Medicaid Program is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of the Food Stamp Program 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 EBT benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

The Qualified Medicare Beneficiaries (QMB), the Specified Low Income Medicare Beneficiaries (SLIMB), and the Qualified Individuals (QI-1 and QI-2) Programs provide limited coverage under the Medicaid Program for eligible individuals or couples who are eligible for Medicare, Part A and who meet specified income tests. The QMBV program has a lower maximum income level and provides coverage of all Medicare co-insurance and deductibles as well as payment of the Medicare premium. SLIMB and QI-1 have higher maximum income levels and provide only for the payment of the Medicare Part B premium. The maximum income level for QI-2 is 175% of the Federal Poverty Level. This program pays for a portion of the Medicare premium.

III. PARTICIPANTS:

_____, Claimant
Leslie Riddle-Deem, ESW, DHHR

Presiding at the Hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department was correct in their proposal to reduce the Claimant's Food Stamp benefits effective July 2005 and their action to terminate the Claimant's Food Stamp and QMB Medicaid benefits in July 2005.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 4.1, 6.3, 10.4 & 11.3
Common Chapters Manual, Section 750
7 CFR 273.9- Code of Federal Regulations

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- A. Case Comments from the Rapids system.
- B. Fair Hearing Request Form received by the [REDACTED] County DHHR on 7/11/05.
- C. WVIMM 10.4 – Income deductions for Food Stamp benefits.
- D. Client Profile Report from [REDACTED] Pharmacy.
- E. Notice of Decision dated 6/8/05 (reduction in Food Stamp benefits)
- F. Verification Checklist dated 6/10/05
- G. [REDACTED] County Sheriff's Department Investigative Report (5/13/03)
- H. WVIMM, Chapter 11.3
- I. WVIMM, Chapter 2.2(B) Reporting requirements.
- J. Notice of Decision dated 7/7/05 (Food Stamp Closure)

VII. FINDINGS OF FACT:

- 1) The Claimant's original appeal, filed on June 10, 2005, was filed to contest a proposed reduction in her Food Stamp benefits based on a decrease in medical deductions (exhibit E dated 6/8/05). The proposed decrease was effective July 1, 2005.

- 2) The Claimant filed a second appeal following a Notice of Decision (exhibit J) that advised the Claimant that her Food Stamp benefits will stop effective July 2005 as she is in excess of the asset limit for these programs. It should be noted that the notice identified as exhibit J does not include a notice of Medicaid termination and it is not in compliance with adverse action notice requirements found in Chapter 6.3 of the West Virginia Income Maintenance Manual and Section 750 of Common Chapters Manual.
- 3) Evidence submitted in support of the proposed reduction in Food Stamp benefits can be found in exhibit D. This exhibit provides a client prescription profile and reveals that the Claimant averages \$47.82 per month in prescription costs. This evidence alone fails to demonstrate how the proposed Food Stamp reduction was determined.
- 4) The Department contends that the Claimant sold a home in [REDACTED] County in April 2003 for \$48,500 and that \$27,500 was spent on the purchase of the home where she resides. The sale price of the [REDACTED] Co. home was reportedly verified with the [REDACTED] County Assessor's Office, however, the purchase price of the new home is based solely on client report. This leaves a balance of \$21,000. The Claimant provided a police report (exhibit G) indicating that a safe containing \$10,000 was stolen from her home. The Department contends that \$11,000 remains as a result of the sale of the Claimant's home, placing the Claimant over the asset limit for participation in the Food Stamp or Medicaid (QMB) Program.
- 5) The Claimant testified that she doesn't have any of the money left. She had to pay her brother back some money she owed him and although the police report states there was \$10,000 dollars in the safe, she believes there was \$20,000 in the safe when it was stolen. She contends that she has paid several bills and she simply doesn't have any money left.
- 6) West Virginia Income Maintenance Manual, Chapter 10.4:
This section contains policy relating income disregards and deductions and to computation of and eligibility for Food Stamp benefits. It also states: To determine the coupon allotment, find the countable income and number in the benefit group.
- 7) West Virginia Income Maintenance Manual, Chapter 11.3, reveals that the maximum allowable asset limit for an assistance group (AG) of one (1) is \$3000 for Food Stamp benefits (when at least one AG member is age 60 or over) and \$4000 for QMB Medicaid benefits.
- 8) West Virginia Income Maintenance Manual, Chapter 4.1, states that verification of negative statements is not routinely required, unless the client's statement is questionable. An example of a negative statement is when a client reports that he has no bank account. His negative statement is not verified unless there is a valid reason to question it.
- 9) West Virginia Income Maintenance Manual, Chapter 6.3 and Common Chapters Manual, Section 750 reveals that an adverse action notice shall be mailed at least 13 days before the effective date of any action or decision which may be adverse to the client or recipient of services.

VIII. CONCLUSIONS OF LAW:

- 1) The Department failed to provide sufficient evidence to demonstrate how the Food Stamp decrease amount was determined or that there has been a decrease in the Claimant's medical expenses.
- 2) The Claimant was not provided written notice that Medicaid benefits were going to be terminated and the July 7, 2005 notification letter advising the Claimant that Food Stamps were closing effective July 2005 does not meet adverse action notification requirements.
- 3) Because the Claimant's real estate transaction occurred in April 2003, it is not unreasonable to believe that she may have spent any money that remained following the purchase of her new home. Some of the money has been accounted for in a police report and testimony indicates that she is unsure how much money was actually stolen. In addition, the Claimant has consistently reported that she does not have any of the money left, and more importantly, the Department has failed to produce any evidence to the contrary. While there may have been policy infractions regarding reporting requirements following the April 2003 real estate transaction, the evidence fails to demonstrate that the Claimant is in excess of the asset limit for Food Stamp and/or Medicaid (QMB) benefits.
- 4) Food Stamp and Medicaid benefits should be reinstated to their previous amount effective July 1, 2005.

IX. DECISION:

After reviewing the information presented during the hearing and the applicable policy and regulations, I am ruling to **reverse** the Department's proposal / action to reduce and/or close the Claimant Food Stamp and Medicaid benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day of September, 2005.

**Thomas E. Arnett
State Hearing Officer**