



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Joe Manchin III
Governor

Patsy Hardy, FACHE, MSN, MBA
Cabinet Secretary

December 10, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 17, 2009. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your Supplemental Nutrition Assistance Program (SNAP) benefits and terminate Specified Low-Income Medicaid Beneficiaries (SLIMB) coverage.

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 (formerly Food Stamp Program) is based on current policy and regulations. Some of these regulations state as follows: When at least one assistance group member is elderly 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. To determine the coupon allotment, find the countable income and the number in the assistance group in Appendix C. Policy also states that an individual's countable monthly income must not exceed \$1,083 to qualify for SLIMB benefits. (West Virginia Income Maintenance Manual Chapters 10.4 and 10, Appendix A)

Based on information submitted at the hearing, the Department has correctly calculated your SNAP allotment and has correctly proposed the termination of your SLIMB benefits.

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to decrease your SNAP benefits and terminate SLIMB coverage.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Susan Layman, ESW, DHHR

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

-----,

Claimant,

v.

Action Numbers: 09-BOR-1983 and 09-BOR-1984

**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 December 9, 2009 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 November 17, 2009 on a timely appeal filed September 30, 2009.

It should be noted that benefits have continued pending the hearing decision.

II. PROGRAM PURPOSE:

The program entitled SNAP, formerly Food Stamps, 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 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 QMB 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

Susan Layman, Economic Service Worker, DHHR

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

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department has correctly proposed to reduce the Claimant's SNAP benefits and terminate the Claimant's SLIMB coverage due to an increase in monthly income.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapters 10.3, 10.4, 10-Appendix A, 10-Appendix C, 10.22 and 16.6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notice of Decision dated September 25, 2009 regarding SLIMB termination
- D-2 Notice of Decision dated September 25, 2009 regarding SNAP reduction
- D-3 West Virginia Income Maintenance Manual Chapter 10, Appendix A
- D-4 West Virginia Income Maintenance Manual Chapter 10.3, QQQQ
- D-5 Written calculation of SNAP benefits

VII. FINDINGS OF FACT:

- 1) The Claimant is a recipient of Supplemental Nutrition Assistance Program (SNAP) and Specified Low-Income Medicaid Beneficiary (SLIMB) benefits. The Claimant reported that his Veterans Administration income had increased, bringing his total monthly income to \$1,209. It should be noted that the Claimant receives \$833 per month in Social Security income and \$376 in Veterans Administration income.
- 2) The Department sent the Claimant Notices of Decision (D-1 and D-2) dated September 25, 2009. The notices informed the Claimant that his SNAP benefits would decrease from \$61 to \$16 and his SLIMB benefits would be terminated effective November 1, 2009 due to his increase in income.
- 3) The Economic Service Worker testified regarding SNAP calculations included in Exhibit D-5, explaining that the Claimant receives the following income deductions: Standard Deduction of \$141; excess medical expense deduction of \$230.13; and shelter/utility deduction of \$181.07. This brings the Claimant's total countable monthly income to \$656.80 and renders him eligible for \$16 in SNAP benefits per month. The worker stated that – while the Claimant's countable income is excessive for SLIMB benefits, he is within income guidelines for Qualified Individual (QI-1) Medicaid coverage. However, because he is eligible for Aged/Disabled Home and Community-Based Waiver Medicaid, a full-coverage Medicaid group, he is excluded from QI-1 coverage. The worker testified that the Claimant's Veterans Administration income is considered as unearned income for the SNAP and SLIMB Program as it does not meet a listed exception in policy.
- 4) The Claimant did not dispute the amount of his monthly income, but believes he should be eligible QI-1 benefits. He expressed disapproval of the Department's proposal to reduce/terminate his benefits.
- 5) West Virginia Income Maintenance Manual Section 10.3, QQQQ (D-4) states that Veterans Administration benefits are considered unearned income for the SNAP and SLIMB Program unless the income meets a listed exception.
- 6) West Virginia Income Maintenance Manual Section 10.3 states that Social Security income is counted as unearned income for the SNAP and SLIMB Program.
- 7) West Virginia Income Maintenance Manual Chapter 10.4, C, 1 states:

When at least one AG member is elderly 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.
- 8) West Virginia Income Maintenance Manual Chapter 10.4, B lists allowable income deductions for the SNAP. These deductions include a 20 percent earned income deduction, a standard deduction, a dependent care deduction, a deduction for child support paid, the Homeless Shelter Standard Deduction, a deduction for medical expenses in excess of \$35 per month (only for persons disabled or over age 60), and a shelter/utility deduction.

9) West Virginia Income Maintenance Manual Chapter 10.4, C, 2 states:

2. Determining Countable Income

The following steps are used to determine countable income for cases meeting the eligibility tests in item 1 above.

Step 1: Combine monthly gross non-excluded earnings and monthly gross profit from self-employment.

Step 2: Deduct 20% of Step 1.

Step 3: Add the gross non-excluded unearned income, including the WV WORKS benefit and any amount reduced or being repaid to the WV WORKS due to failure to comply with a program requirement. See Section 10.4, D.

Step 4: Subtract the Standard Deduction found in Appendix B. (*Currently \$141*)

Step 5: Subtract the Dependent Care Deduction up to the maximums found in Appendix B.

Step 6: Subtract the amount of legally obligated child support actually paid.

Step 7: Subtract the Homeless Shelter Standard Deduction found in Appendix B.

Step 8: Subtract allowable medical expenses in excess of \$35.

Step 9: Calculate 50% of the remaining income and compare it to the actual monthly shelter/SUA amount.

Step 10:

No One Elderly or Disabled		At Least One Person Elderly or Disabled
Shelter/SUA Equal To Or Less Than Step 9.	No further computation is needed. The amount from Step 8 is the countable income.	No further computation is needed. The amount from Step 8 is the countable income.
Shelter/ SUA Greater Than Step 9.	The amount in excess of 50%, not to exceed the shelter/ utility cap, in Appendix B is deducted to arrive at countable income.	The amount in excess of 50% is deducted, without regard to the shelter/ utility cap, in Appendix B to arrive at countable income.

Step 11: Compare the countable income to the maximum net income in Appendix A for the AG size. This net income test does not apply to Categorically Eligible AGs.

3. Determining The Amount Of The Benefit

To determine the coupon allotment, find the countable income and the number in the AG in Appendix C.

- 10) West Virginia Income Maintenance Manual Section 10, Appendix C lists Food Stamp allotments based on income and the number of individuals in the assistance group. This section indicates that a one-person assistance group with \$656.80 in countable net income is entitled to \$16 in SNAP benefits per month.
- 11) West Virginia Income Maintenance Manual Section 10, Appendix A (D-3) states that the income limit for SLIMB coverage for a one-person assistance group is \$904 to \$1,083 per month.
- 12) West Virginia Income Maintenance Manual Section 10.22, B, 2 states that income deductions for adults enrolled in the SLIMB Program include an SSI disregard of \$20, as well as deductions for any unearned income diverted to a PASS account and death benefits.

- 13) West Virginia Income Maintenance Manual Section 16.6, E states that the income range for QI-1 is 121% to 134% of the Federal Poverty Level. This section states that an individual can qualify for QI-1 benefits provided that he is ineligible for any full-coverage Medicaid group.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that Social Security income and Veterans Administration benefits are considered unearned income for both the SNAP and SLIMB Program provided that they do not meet a policy exception.

To determine the SNAP allotment, countable income (after all allowable deductions) is compared to Chapter 10, Appendix C for the number of individuals in the assistance group.

To qualify for SLIMB benefits, the countable income of a one-person assistance group must not exceed \$1,083 per month. Policy reveals that an individual receiving benefits under a full-coverage Medicaid group is ineligible for QI-1 coverage.

- 2) The Claimant's total monthly gross income of \$1,209 is undisputed.

Based on information provided during the hearing, the Claimant's net adjusted income for the SNAP – following all allowable deductions - is \$656.80. Policy indicates that a one-person assistance group with countable income of \$656.80 is entitled to \$16 per month in SNAP benefits. Therefore, the Department's proposal to decrease the Claimant's SNAP allotment is correct.

- 3) No testimony was provided to indicate that the Claimant is eligible for SLIMB deductions other than the \$20 SSI disregard. Therefore, the Claimant's total countable income (following deductions) for the SLIMB Program is \$1,189 and the Department has correctly determined that he is ineligible for SLIMB coverage. As the Claimant receives full-coverage Medicaid through the Aged/Disabled Home and Community-Based Waiver Program, he is ineligible for QI-1 benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to reduce the Claimant's SNAP benefits and terminate his SLIMB coverage.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 10th Day of December, 2009.

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