



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

October 6, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 6, 2009. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your Supplemental Nutrition Assistance Program (SNAP) effective May 2009.

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: For SNAP, 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 not gross income test. (West Virginia Department of Health and Human Resources (WVDHHR) Income Maintenance Manual §10.4.C.1)

The information submitted at your hearing reveals that after all allowable disregards and deductions, your net monthly countable income in May 2009 increased to eight hundred eighty eight dollars and ninety cents (\$888.90), which exceeds the Net Income Limit of eight hundred sixty seven dollars (\$867) in place at that time. The Net Income Limit has increased effective October 2009 to nine hundred three dollars (\$903.00).

It is the decision of the State Hearing Officer to **uphold** the action of the Department in terminating your SNAP eligibility effective May 31, 2009; however, you are not precluded from reapplying for SNAP based on the changes to the Net Income Limit that became effective October 2009.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Nelson Hudson, Kanawha DHHR

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

-----,

Claimant,

v.

Action Number: 09-BOR-1342

**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 October 6, 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 October 6, 2009 on a timely appeal filed May 15, 2009.

It should be noted that the Claimant's SNAP benefits have been 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, representing himself
Nelson Hudson, Economic Service Supervisor, 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 proposal to terminate the Claimant's SNAP effective May 31, 2009.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual ' 10.4 and Appendix C.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual Section 10.4, page 76a
- D-2 West Virginia Income Maintenance Manual Section 10.4, page 76b
- D-3 West Virginia Income Maintenance Manual Section 10.4, page 77
- D-4 West Virginia Income Maintenance Manual Section 10.4, page 78
- D-5 Notification letter dated May 7, 2009, page 1
- D-6 Notification letter dated May 7, 2009, page 2
- D-7 Notification letter dated May 7, 2009, page 3
- D-8 Rapids Shelter Costs screen updated May 30, 2009
- D-9 Rapids Unearned Income screen updated June 12, 2009
- D-10 Notification letter dated June 3, 2009
- D-11 Income Chart – effective February 2009
- D-12 Rapids Individual Demographics screen updated March 27, 2003
- D-13 Rapids Utility Costs screen for water updated June 12, 2009
- D-14 Rapids Utility Costs screen for sewer updated June 12, 2009
- D-15 Rapids Utility Costs screen for electricity updated June 12, 2009
- D-16 Rapids Food Stamp Allotment Determination screen updated May 30, 2009

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was actively receiving SNAP, formerly known as Food Stamps, in May 2009 when the Department updated the income in his SNAP case with his current Social Security Disability benefit of one thousand one hundred fifty eight dollars (\$1158.00). The Department claims this increase in income has caused the Claimant to become ineligible for SNAP as his net countable income exceeds the Net Income Limit.

- 2) The Department considers the Claimant to be disabled and therefore he is not required to meet the Gross Income Test for SNAP. He is, however, required to meet the Net Income Limit. In order to meet the Net Income Test (D-11), the Claimant's net remaining income after all allowable deductions must be less than eight hundred sixty seven dollars (\$867.00) for May 2009. The Department contends (D-6) the Claimant's net income after allowable deductions is nine hundred five dollars (\$905.00), which is in excess of the Net Income Limit for the month in question.
- 3) The Claimant testified that the Department's claim that his Social Security income is one thousand one hundred fifty eight (\$1158.00) is correct. The Claimant stated that he wanted to be sure that he was given every allowable deduction in determining his SNAP eligibility, and he believes the Department may have overlooked information in this process. The Claimant testified that he pays two hundred twenty nine dollars (\$229.00) for rent. He also is responsible for paying his electric, water, and sewer. He heats and cools his home with electric. He also is responsible for paying medical bills.
- 4) The West Virginia Income Maintenance Manual §10.4,B states in pertinent part:

INCOME DISREGARDS AND DEDUCTIONS

Certain items may be allowed as income deductions to arrive at an AG's countable income. A deduction is allowed even if the payment is made from assets. The expense must be billed or be due during the certification period in which the deduction is claimed. In addition, deductions from the AG's income are applied only if the expense is obligated to be met by the AG's own resources. The AG's obligation must be to an individual not included in the AG to receive a deduction.

NOTE: 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 required by policy.

The following are the only allowable disregards and deductions for the SNAP Program. They apply to the income of the AG members and any individual sanctioned/penalized due to enumeration, IPV, failure to comply with a work requirement or disqualified by law.

1. Earned Income Disregard

Twenty percent (20%) of gross non-excluded earned income, including gross profit from self-employment, is disregarded.

2. Standard Deduction

A Standard Deduction is applied to the total non-excluded income counted for the AG, after application of the Earned Income Disregard. The amount of the Standard Deduction is found in Appendix B.

3. Dependent Care Deduction

A deduction is allowed for payment for the care of a child or other dependent, when the expense is necessary for an Income Group member to accept, continue or seek employment or training, or pursue education which is preparatory to employment.

4. Child Support Deduction

A deduction is allowed for legally obligated child support actually paid by an AG member or disqualified individual to an individual not residing in the same household.

5. Homeless Shelter Standard Deduction

This deduction may be applied when a homeless AG incurs any shelter/utility expenses for the month.

6. Medical Expenses

Medical expenses in excess of \$35 must be allowed as a medical deduction. Only the medical expenses of AG members who are elderly, which is at least age 60, or disabled, as defined in Section 12.15,B, are considered.

7. Shelter/Utility deduction

After all other exclusions, disregards and deductions have been applied, 50% of the remaining income is compared to the total monthly shelter costs and the appropriate Standard Utility Allowance (SUA). If the shelter costs/SUA exceeds 50% of the remaining income, the amount in excess of 50% is deducted. The deduction cannot exceed the shelter/utility cap found in Appendix B.

(1) Heating/Cooling Standard (HCS)

To be eligible for the HCS, the AG must meet the following criteria:

(a) Heating or Cooling Costs

AGs that are obligated to pay a heating or cooling expense that is billed on a regular basis are eligible for the HCS.

5) The West Virginia Income Maintenance Manual §10.4,C, states in pertinent part:

DETERMINING ELIGIBILITY AND BENEFIT LEVEL

The following information describes situations encountered in determining eligibility for most AG's.

The process of determining eligibility and the amount of the benefit differs when an AG member is elderly or disabled.

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.

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.

Step 4: Subtract the Standard Deduction found in Appendix B.

Step 5: Subtract allowable Dependent Care Expenses.

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: At Least One Person Elderly or Disabled and Shelter/SUA Greater than Step 9: 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.

- 6) In reviewing the potential disregards and deductions, the Claimant is not eligible for an earned income deduction since he has no earned income.
- 7) West Virginia Income Maintenance Policy in Appendix B states that Standard Deduction for one individual is one hundred forty four dollars (\$144.00). The Department allowed the Claimant a Standard Deduction in the amount of one hundred forty four dollars (\$144.00).

- 8) The Claimant testified that he does not have a dependent care obligation, child support obligation, or homeless shelter obligation. The Department did not allow deductions in these areas.
- 9) In determining eligibility for the Medical Expense Deduction, the Department showed (D-16) the Claimant's reported medical expenses were fifty nine dollars and seventy three cents (\$59.73). The Claimant did not disagree with this calculation. The Department allowed the Claimant a twenty four dollar and seventy three cent (\$24.73) deduction for his medical expenses in excess of thirty five dollars (\$35.00).
- 10) In considering the Shelter/Utility Deduction, the Department considered the Claimant's rent obligation of two hundred twenty nine dollars (\$229.00), and he was given the Heating/Cooling Standard (HCS) deduction for his utility obligations. The amount of the HCS deduction applied by the Department was three hundred sixty six dollars (\$366.00) for the period of May 2009, which corresponds with the amount listed in Appendix B of the West Virginia Income Maintenance Manual for this type deduction.
- 11) After consideration of all reported obligations and application of all allowable disregards and deductions, this Claimant's countable net income for the period of May 2009 is eight hundred eighty eight dollars and ninety cents (\$888.90).
- 12) Again, the Net Income Limit for a one person household for the period of May 2009 is eight hundred sixty seven dollars (\$867.00). The Claimant's countable net income for May 2009 exceeded the Net Income Limit by twenty one dollars and ninety cents (\$21.90).

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that SNAP benefits are calculated by beginning with the total gross income, and subtracting certain deductions and disregards to arrive at a final net monthly countable income. In cases involving disabled individuals, the Gross Income Limit test is not applied. The individual is only required to be below the Net Income Limit after allowable deductions and disregards. In this particular case, the Net Income Limit for this one person disabled individual household is eight hundred sixty seven dollars (\$867.00) for May 2009.
- 2) The Claimant's total gross income is one thousand one hundred fifty eight dollars (\$1158.00), and he is eligible for the standard deduction of one hundred forty four dollars (\$144.00), a medical expense deduction in the amount of twenty four dollars and seventy three cents (\$24.73), and a shelter/utility deduction in the amount of one hundred dollars and thirty seven cents (\$100.37).
- 3) After allowable deductions and disregards are subtracted the Claimant's total countable net income is eight hundred eighty eight dollars and ninety cents (\$888.90), which is in excess of the Net Income Limit of eight hundred sixty seven dollars (\$867.00).
- 4) The Department correctly calculated this Claimant's eligibility for SNAP in May 2009.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposed action of the Department to terminate the Claimant's SNAP eligibility effective May 31, 2009. The Claimant is not precluded from reapplying for SNAP since the Net Income Limit increased in October 2009 to nine hundred three dollars (\$903.00).

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 6th Day of October, 2009.

**Cheryl Henson
State Hearing Officer**