



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

March 11, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held March 3, 2010. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your Supplemental Nutrition Assistance Program (SNAP) effective February 1, 2010 due to an increase in income.

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 income is received weekly a monthly amount is arrived at by multiplying the weekly amount by 4.3. (West Virginia Department of Health and Human Resources' Income Maintenance Manual Chapter 10.4.A.4)

The information submitted at your hearing reveals that the Department correctly calculated your SNAP eligibility by taking your weekly benefit of one hundred seventy four dollars (\$174.00) and multiplying that amount by 4.3 to arrive at a monthly gross income of seven hundred forty eight dollars and twenty cents (\$748.20). After deductions are applied, you are eligible for thirty two dollars (\$32.00) SNAP.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in reducing your SNAP amount to thirty two dollars (\$32.00) effective February 1, 2010 due to an increase in income.

Sincerely,

Cheryl Henson, State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Tera Pendleton, [REDACTED] DHHR

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

-----,

Claimant,

v.

Action Number: 10-BOR-665

**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 March 3, 2010 on a timely appeal filed January 11, 2010.

It should be noted that the Claimant's SNAP 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

Tera Pendleton, Income Maintenance Worker, 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 reduce the Claimant’s SNAP effective February 1, 2010 due to an increase in income.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual §1.2.D. , 1.2.I, 10.4.B.C.D, and Appendix B.

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department’s Exhibits:

- D-1 Hearing appointment notice dated January 21, 2010
- D-2 Case comments from RAPIDS computer system
- D-3 Unemployment Compensation income information
- D-4 RAPIDS computer screens showing income and expense screens
- D-5 Notification letter dated January 8, 2010

Claimant’s Exhibits:

- C-1 Cash Advance receipt dated January 26, 2010
- C-2 Page three (3) of notification letter dated January 8, 2010

VII. FINDINGS OF FACT:

- 1) The Claimant was actively receiving SNAP, formerly known as Food Stamps, as a one (1) person household on January 8, 2010 when the Department sent him a notification letter (D-5) which included the following pertinent information:

ACTION: Your SNAP will decrease from \$200.00 to \$32.00 effective 02/01/10.

REASON: The Standard Deduction amount applied to the SNAP income has changed. Your income has increased. \$748.20

Your Gross Income.....748.20
 SNAP Gross Income Limit.....1174.00
 Your Countable Net Income.....560.80

If you are paid more than once each month, your expected gross income for a month is determined by the following method:

Expected gross income received each week is multiplied by 4.3
Expected gross income received every two weeks is multiplied by 2.15
Expected gross income received twice a month is multiplied by 2

- 2) The Department contends that the Claimant was approved for SNAP in December 2009 (D-2) at which time he was listed as having no income; however, he reported at that time that he had applied for Unemployment Compensation. He was denied but is in hearing status.
- 3) The Department received information during the month of January 2010 (D-3) that showed the Claimant began receiving Unemployment Compensation in the amount of one hundred seventy four dollars (\$174.00) weekly. The Department reports that because they determined the income was received weekly they multiplied the weekly amount of income by 4.3 for a total monthly gross income in the amount of seven hundred forty eight dollars and twenty cents (\$748.20). This amount reflects the amount listed in the Claimant's notification letter (D-5).
- 4) The Department presented evidence to show that the Claimant received a standard deduction from his income in the amount of one hundred forty one dollars (\$141.00), and a shelter utility deduction in the amount of forty six dollars and forty cents (\$46.40). The Department showed (D-4) that the Claimant's actual expense for shelter is three hundred fifty dollars (\$350.00). The Department contends that policy provides that his shelter deduction is reduced due to his income.
- 5) The Claimant contends that the Department is counting over one thousand five hundred dollars (\$1500.00) as his income in its calculations. He claims they are hiding this fact and committing fraud against him. The Claimant contends that he actually receives seven hundred ninety six dollars (\$796.00) monthly from Unemployment Compensation.
- 6) The Claimant presented evidence (C-1) in the form of a cash advance receipt from Chase Bank showing a sale amount of three hundred ninety eight dollars (\$398.00). The Claimant contends this is evidence of his partial month payment for Unemployment Compensation; however, this receipt is not relevant as it does not show what the income amount is, and actually tends to show some type of debt owed by the Claimant.
- 7) The Claimant also submitted evidence (C-2) which he states shows the Department is counting too much income against him for SNAP. He offered the following statement at the end of the document (C-2) as evidence to show that the Department is doubling his income:

If you are paid more than once each month, your expected gross income for a month is determined by the following method:

Expected gross income received each week is multiplied by 4.3
Expected gross income received every two weeks is multiplied by 2.15
Expected gross income received twice a month is multiplied by 2

- 8) The West Virginia Income Maintenance Manual §10.4.A.4 states that when converting income to a monthly amount you must multiply a weekly amount by 4.3 and the result is considered the monthly gross income.

- 9) The West Virginia Income Maintenance Manual Section 20.4,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.

- 10) In reviewing the potential disregards and deductions, the Claimant is eligible for the Standard Deduction in the amount of one hundred forty one dollars (\$141.00) and the Shelter Deduction in the amount of forty six dollars and forty cents (\$46.40). After these deductions are applied the Claimant's countable net income is five hundred sixty dollars and eighty cents (\$560.80).
- 11) The Claimant does not have earned income for the earned income deduction, and did not report a dependent care obligation, child support obligation, medical expense obligation, or homeless shelter obligation; therefore, these deductions do not apply.
- 12) The West Virginia Income Maintenance Manual Chapter 10, Appendix C states that for SNAP a one person household with countable net income between five hundred fifty seven dollars (\$557) and five hundred sixty dollars (\$560.00) is eligible for thirty two dollars (\$32.00) SNAP.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that when an individual receives weekly income, his monthly gross income is calculated by multiplying the weekly amount by 4.3. Policy also provides that SNAP benefits are calculated by beginning with the total monthly gross income, and subtracting certain deductions and disregards to arrive at a final net monthly countable income.

- 2) The Claimant's gross monthly income is seven hundred forty eight dollars and twenty cents (\$748.20) and is received from Unemployment Compensation. He is eligible for the standard deduction in the amount of one hundred forty one dollars (\$141.00), and the shelter/utility deduction in the amount of forty six dollars and forty cents (\$46.40). After all eligible deductions and disregards are applied the Claimant's net countable monthly income is five hundred sixty dollars and eighty cents (\$560.80).
- 3) When compared to the monthly SNAP benefit table the Claimant is eligible for thirty two dollars (\$32.00) SNAP.
- 4) The Department correctly calculated the Claimant's eligibility for SNAP. There is no evidence to support that the Department doubled the Claimant's monthly income and counted over one thousand five hundred dollars (\$1500.00) against him.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposed action of the Department to reduce the Claimant's SNAP eligibility effective February 1, 2010.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 11th Day of March, 2010.

**Cheryl Henson
State Hearing Officer**