



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

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

November 23, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held November 22, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your Supplemental Nutrition Assistance Program (SNAP) benefits.

In arriving at a decision, the State Hearings 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 is based on current policy and regulations. These regulations provide that the SNAP allotment is determined by the difference between 30 % of the household's countable net income, after all deductions are applied, and the maximum SNAP allotment for that household's size (WV Income Maintenance Manual § 10.4 C).

The information submitted at your hearing revealed that based on an increase in your earned income, your SNAP benefits will be reduced to \$187.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to reduce your SNAP benefits.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Chloe Philip, Economic Service Worker

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-2111

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondents.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on November 22, 2011 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 a timely appeal, filed September 27, 2011.

It should be noted here that the Claimant's benefits under the Supplemental Nutrition Assistance Program have continued pending a decision.

II. PROGRAM PURPOSE:

The program entitled Supplemental Nutrition Assistance Program is administered by the West Virginia Department of Health and Human Resources.

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

-----, Witness for Claimant

Chloe Philip, Economic Service Worker

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department's proposal to reduce Claimant's SNAP benefits is correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 10.4 A and 10.4 C

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Hearing Request received September 27, 2011
- D-3 Scheduling Order
- D-4 Notification Letter dated September 26, 2011
- D-5 Case Comments (CMCC) from RAPIDS Computer System
- D-6 Detailed Earned Income Screen (AFDE) from RAPIDS Computer System

Claimants' Exhibits:

- C-1 Paystubs from [REDACTED]

VII. FINDINGS OF FACT:

- 1) Claimant completed a SNAP review on September 19, 2011. A notification letter was issued by the Department on September 26, 2011 which reads in pertinent part (D-4):

ACTION: Your SNAP will decrease from \$220.00 to \$168.00 effective 10/01/11.

REASON: Earned income increased.

- 2) Chloe Philip, Economic Service Worker, testified to the income used in determining Claimant's SNAP allotment. Claimant submitted paystubs from his employment with [REDACTED] for September 1, 2011 in the amount of \$544.44 and for September 15, 2011 in the amount of \$576.53. Ms. Philip stated this income was converted to a monthly

amount of \$1205.03 (D-5 and D-6). Ms. Philip stated Claimant's earned income had increased since the previous SNAP review, causing a reduction in SNAP benefits.

- 3) Claimant testified that he works 25-30 hours a week making \$7.75 an hour. Claimant stated his hours fluctuate from week to week.
- 4) -----, Claimant's wife, testified that she is disabled and their only income is from Claimant's job. -----stated they pay rent of \$225 a month and their heating source of electricity. -----stated her out-of-pocket medical expenses average \$11 a month.
- 5) WV Income Maintenance Manual § 10.4 A (1-4) states (for SNAP):

Eligibility is determined and benefits are issued on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. The following information applies to earned and unearned income. For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the AG. For all cases, income is projected; past income is used only when it reflects the income the client reasonably expects to receive.

There are 2 methods for reasonably anticipating the income the client expects to receive. One method uses past income and the other method uses future income. Both methods may be used for the same AG for the same certification period because the method used varies with the circumstances of each source of income. The situations which prompt usage of one or the other method are listed below. More details are contained in the follow items. Use past income only when both of the following conditions exist for a source of income:

- Income from the source is expected to continue into the certification period; and
- The amount of income from the same source is expected to be more or less the same.

NOTE: For these purposes, the same source of earned income means income from the same employer, not just the continued receipt of earned income. Use future income when either of the following conditions exist for a source of income:

- Income from a new source is expected to be received in the certification period; or
- The rate of pay or the number of hours worked for an old source is expected to change during the certification period.

NOTE: For these purposes, a new source of earned income means income from a different employer. Income that normally fluctuates does not require use of future income. Future income is used for old sources only when the hourly, weekly, monthly, etc. rate of pay changes or the number of hours worked during a pay period increases or decreases permanently.

It is necessary to consider information about the client's income sources before the Worker can decide which income to use. The Worker must follow the steps below for each old income source.

Step 1: Determine the amount of income received by all persons in the Income Group in the 30 calendar days prior to the application/redetermination date. The appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of application/redetermination. The income from this 30-day period is the minimum amount of income which must be considered. When, in the Worker's judgment, future income may be more reasonably anticipated by considering the income from a longer period of time, the Worker considers income for the time period he determines to be reasonable. Whether the Worker considers income from the prior 30 days, or from a longer period of time, all of the income received from that source during that time period must be considered. All pay periods during the appropriate time period must be considered and must be consecutive.

Step 2: Determine if the income from the previous 30 days is reasonably expected to continue into the new certification period. If it is not expected to continue, the income from this source is no longer considered for use in the new certification period. If it is expected to continue, determine if the amount is reasonably expected to be more or less the same. If so, the income source is used for the new certification period and treated according to item 4 below. If it is not expected to continue at more or less the same amount, the income source is used for the new certification period and treated according to item 3 below.

Step 3: Record the results of Step 2, including the amount of income, why the source is or is not being considered for the new certification period, the client's statement about continuation of the income from this source, the time period used, and, if more than the previous 30 days, the reason additional income was considered. Once the Worker has determined all of the old sources of income to consider and the time period for which they are considered, he must then determine if any source should be considered for future income.

The purpose of finding an average amount of fluctuating income is to even out the highs and lows in the amount of income. The client is not,

then, required to report fluctuating income each pay period and the Worker is not required to change income monthly. Sometimes the client receives higher benefits than he would if actual income were used and sometimes he receives lower benefits. Therefore, when the Worker has averaged fluctuating income based on the best information available and the client's income does not match the monthly amount used by the Worker, there is no repayment when the client receives higher benefits and no supplemental issuance when the client receives lower benefits. Should the client report fluctuations in the amount of income, the Worker is only required to recalculate the countable income when, in his judgment, the fluctuation will significantly impact the coupon allotment. All changes reported by the client must be considered, but not necessarily used. Reported changes must be recorded and the Worker must record why the reported income was or was not used.

Conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows:

- Weekly amount x 4.3
- Bi-weekly amount (every 2 weeks) x 2.15
- Semi-monthly (twice/month) x 2

5) WV Income Maintenance Manual § 10.4 C (for SNAP) states:

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

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.

- When no AG member is elderly or disabled, the gross income must be equal to or less than the gross income limit in Appendix A. If so, the AG qualifies for the disregards and deductions in Section 10.4 B. If the gross income exceeds the amount in Appendix A, the AG is ineligible.

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: Shelter/SUA equal to or less than step 9 - At least one person elderly or disabled: 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% is deducted, without regard to the shelter/utility cap in Appendix B to arrive at the 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 AG's.

To determine the coupon allotment, find the countable income and the number in the AG in Appendix C. One-and two-person AG's who meet the gross and net income test or who are categorically eligible, as defined in Section 1.4,R,3, automatically receive a minimum \$16 monthly benefit, unless it is a prorated benefit. See Appendix D. No benefits are issued to any AG eligible for an initial, prorated amount of \$1 - \$9. See Chapter 1 for proration requirements.

Although Appendix C of this Chapter (10), Basis of Issuance, provides benefit amounts based upon countable income, the Worker may determine the benefit amount by using the following method. This method is also used by RAPIDS to determine the benefit.

Multiply the net income by 30% (round up)

Subtract 30% of the net income by the coupon allotment for the AG size

VIII. CONCLUSIONS OF LAW:

- 1) The thirty day period of consideration from the date of Claimant's SNAP review is August 30, 2011 through September 18, 2011. The Department used Claimant's paystubs dated September 1, 2011 and September 15, 2011, which were converted to a monthly amount of \$1205.03. The Department correctly calculated Claimant's earned income.
- 2) Claimant's SNAP allotment is determined by policy as follows: \$1205.03 minus the 20% work deduction (1205.03-241.01) is \$964.02. The standard deduction is subtracted from the remaining income (964.02-147) for a total of \$817.02.

Claimant's shelter and utility costs are \$625 monthly (225 rent and 400 heating/cooling standard deduction). Fifty percent of Claimant's remaining income is \$408.51 (817.02/2). Claimant is entitled to the difference between his shelter and utility costs and fifty percent of his income (625-408.51) for a total shelter deduction of \$216.49. The shelter deduction is subtracted from the remaining earned income for a SNAP income of \$600.53 (817.02-216.49).

- 3) Claimant's SNAP allotment is determined by calculating thirty percent of the net SNAP income (600.53 x .30) and comparing it to the maximum allotment for Claimant's household size. The difference is the SNAP allotment (367-180.16).
- 4) Based on Claimant's income and deductions allowed by policy, Claimant's SNAP benefits are determined to be \$187.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to reduce Claimant's SNAP benefits. SNAP benefits will be reduced to \$187 monthly.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision
Form IG-BR-29

ENTERED this 23rd day of November 2011.

**Kristi Logan
State Hearing Officer**