



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

February 18, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 18, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your Supplemental Nutrition Assistance Program benefits and Qualified Child Medicaid.

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 the Supplemental Nutrition Assistance Program (SNAP) and Qualified Child Medicaid is based on current policy and regulations. These regulations provide that when no SNAP Assistance Group member is elderly or disabled, the gross income must be equal to or less than the gross income limit in Appendix A. If the gross income exceeds the amount in Appendix A, the Assistance Group is ineligible. If the Income Group has only earned income, and the gross amount is at or below 100% FPL plus \$90, for the appropriate Needs Group size, the child is eligible as a Qualified Child Medicaid (WV Income Maintenance Manual § 10.4 C and 10.10 B).

The information submitted at your hearing revealed that your household's gross income exceeds the allowable limits to continue receiving SNAP and Qualified Child Medicaid.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to terminate your SNAP benefits and Qualified Child Medicaid.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Fred Burns, Economic Service Supervisor

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

-----,

Claimant,

v.

**Action Number: 10-BOR-2324
10-BOR-2325**

**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 January 18, 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.

It should be noted here that the claimant's benefits under the Supplemental Nutrition Assistance Program and Qualified Child Medicaid program have continued pending a decision.

II. PROGRAM PURPOSE:

The Programs entitled Supplemental Nutrition Assistance Program (SNAP) and Qualified Child Medicaid is administered by the West Virginia Department of Health & 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.

Qualified Child Medicaid provides coverage to children under the age of 19 whose family income is at or below 100% of the Federal Poverty Level and who are not eligible for SSI Related Medicaid.

III. PARTICIPANTS:

-----, Claimant

Fred Burns, Economic Service Supervisor
Debbie White, 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 terminate Claimant’s SNAP and Qualified Child Medicaid is correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 10.4, Appendix A and 10.10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department’s Exhibits:

- D-1 Pre-Hearing Conference Appointment Letter
- D-2 Termination Notification Letter dated November 12, 2010
- D-3 Detailed Earned Income Screens (AFDE) from RAPIDS Computer System
- D-4 Paystubs for Claimant and -----
- D-5 WV Income Maintenance Manual § 10.4 A, 10.12 and Appendix A

Claimants’ Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Claimant submitted review forms for SNAP and Qualified Child Medicaid for ----- and -----on October 26, 2010 to the Department. Income for Claimant’s household was verified by paystubs submitted with the review forms. A termination letter dated November 12, 2010 was issued by the Department to Claimant notifying him that his household’s income exceeded the allowable limits to continue receiving SNAP benefits and Qualified Child Medicaid (D-2).
- 2) Fred Burns, Economic Service Supervisor, testified to the income that was used in calculating Claimant’s eligibility. Paystubs from Claimant’s employment from October 15, 2010 of \$1608.73 and October 29, 2010 of \$1595.90 were converted to a monthly

amount of \$3204.63. Mr. Burns stated overtime pay was included on both of Claimant's paystubs which was counted in the eligibility calculations. Paystubs for -----, Claimant's wife, that were used in determining eligibility were October 8, 2010 of \$420.59 and October 22, 2010 of \$976.66. This income was converted to a monthly amount of \$976.36. Mr. Burns noted a bonus of \$124.75 included on [REDACTED] October 22, 2010 paystub was not counted as it could not be anticipated to continue (D-3 and D-4).

- 3) Mr. Burns testified the total gross income for Claimant's household was \$4180.99. This income exceeds the allowable limits for Claimant to continue receiving SNAP benefits and Qualified Child Medicaid for ----- and -----(D-4).
- 4) Claimant testified that he must work a minimum of 48 hours a week and cannot refuse any additional overtime. Claimant did not feel his overtime should be counted because of this. Claimant also stated his gross income should not be counted in determining eligibility because he does not actually receive that much money each month.
- 5) WV Income Maintenance Manual § 10.4 A (1) states:

Eligibility [for SNAP] 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.

Methods For Reasonably Anticipating Income

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 [assistance group] 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.

- 6) WV Income Maintenance Manual 10.4 A(2) continues:

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. When the client applies or is redetermined on the day income has or will be received, income received on that date is also considered along with the income from at least the prior 30 days from the same source.

7) WV Income Maintenance Manual § 10.4 A(4) states:

Once the Worker determines all of the income sources which are to be considered for use, the amount of monthly income is determined as follows, based on the frequency of receipt and whether the amount is stable or fluctuates.

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

8) WV Income Maintenance Manual § 10.4 C states:

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.

9) WV Income Maintenance Manual § 10.10 B(1) states:

If the Income Group has only earned income, and the gross amount is at or below 100% FPL [Federal Poverty Level] plus \$90, for the appropriate Needs Group size, the child is eligible as a QC [Qualified Child Medicaid].

10) WV Income Maintenance Manual Chapter 10 Appendix A states:

Gross income limit for SNAP for an AG of 6: \$3200

Gross income limit for Qualified Child Medicaid for an AG of 6: \$2461

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that income that can be reasonably anticipated to continue must be counted in determining eligibility for SNAP and Qualified Child Medicaid. Policy also states gross income, not net income, is used in the eligibility determination process and is converted to a monthly amount according to payment frequency.
- 2) By Claimant's own admission, he is mandated to work more than 40 hours per week. Claimant's overtime income can be anticipated to continue and was properly counted in determining eligibility.
- 3) The total gross income for Claimant's household exceeds the allowable limit to continue receiving SNAP benefits and to continue Qualified Child Medicaid for ----- and -----.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to terminate Claimant's SNAP benefits and Qualified Child Medicaid for ----- and -----.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th day of February 2011.

**Kristi Logan
State Hearing Officer
Member, Board of Review**