



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

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

October 6, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held October 5, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny your Supplemental Nutrition Assistance Program (SNAP) application based on excessive 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 for the SNAP is based on current policy and regulations. Some of these regulations state as follows: Income for the SNAP is determined by computing household income and subtracting all allowable deductions based on the household circumstances. When at least one Assistance Group 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. Policy provides a list of acceptable expenses for which a medical deduction can be allowed. (West Virginia Income Maintenance Manual Chapter 10.4, C)

Information submitted at your hearing reveals that the Department correctly disallowed your son's schooling expenses as a medical deduction when determining net countable household income.

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny your SNAP application.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Mark Kennedy, ESS, DHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-1693

**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 October 5, 2011 on a timely appeal filed July 26, 2011 and received by the Hearing Officer on August 16, 2011. The hearing was originally scheduled for September 21, 2011, but was rescheduled at the request of the Department.

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 EBT 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

Mark Kennedy, Economic Services Supervisor, WVDHHR

Presiding at the hearing was Pamela L. Hinzman, 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 acted correctly in disallowing a medical deduction and denying the Claimant's SNAP application.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 10.4, C, Chapter 10, Appendix A, and Chapter 10.4, 6

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case comments from July and August 2011
- D-2 Notice of Decision dated July 14, 2011
- D-3 West Virginia Income Maintenance Manual Chapter 10.4, 6.a.

Claimant's Exhibits:

- C-1 Hearing information
- C-2 Information from www.socialsecurity.gov (undated)
- C-3 Notices of Decision dated March 21, 2011 and July 14, 2011
- C-4 Information from www.socialsecurity.gov dated September 13, 2011
- C-5 Information from www.socialsecurity.gov (undated)
- C-6 Information from [REDACTED]
- C-7 Information regarding Achievements (of [REDACTED])
- C-8 Income/expense information for Claimant's son

VII. FINDINGS OF FACT:

- 1) The Claimant applied for Supplemental Nutrition Assistance Program (SNAP) benefits on July 7, 2011 (as noted in Exhibit D-1) and was sent notification on July 14, 2011 (D-2) that her application had been denied based on excessive income. This information indicates that the Claimant's net countable household income was calculated as \$2,014.49 and the net income limit for a four-person Assistance Group was \$1,838 at the time of application.
- 2) Mark Kennedy, Economic Services Supervisor with the Department, testified that the Claimant had sought a medical deduction for her five-year-old son ----- school expenses at Achievements, a learning facility in [REDACTED] WV. It should be noted that the Claimant's son has been diagnosed with autism and is a recipient of Supplemental Security Income (SSI). The

Supervisor indicated that school expense is not considered an allowable medical deduction under SNAP policy.

- 3) During the hearing, the Claimant did not dispute the Department's income calculation, however, she presented Exhibits C-2, C-4 and C-5, general information from the Social Security Administration (SSA) internet website, in regard to SSI recipients and the receipt of SNAP (formerly Food Stamp) benefits. The Claimant presented Exhibit C-6, information from [REDACTED] of [REDACTED], which states that "Intensive Behavioral Services such as Applied Behavioral Therapy are deemed medically necessary" for ----- . The Claimant presented Exhibit C-7, information concerning the services offered at Achievements, as well as Exhibit C-8 to show the child's monthly income versus expenses. The Claimant testified that – as payee for her son's SSI check - she is required by the SSA to obtain medically necessary treatment for the child. She indicated that ----- receives \$674 per month in SSI benefits and that his classes cost \$600 per month. The Claimant stated that a psychologist oversees the Achievements facility, however, ----- is taught by teachers who have training in autism services.
- 4) West Virginia Income Maintenance Manual Section 10.4 C specifies that countable income for the SNAP is determined by computing household income and subtracting all allowable deductions based on the household circumstances. Once countable income is determined, the coupon allotment is determined by finding the countable income and the number in the Assistance Group (AG) in Chapter 10, Appendix C.

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.

- 5) West Virginia Income Maintenance Manual Chapter 10, Appendix A, states that the maximum net income for a four-person Assistance Group was \$1,838 per month (at the time of the Claimant's SNAP application).
- 6) West Virginia Income Maintenance Manual Chapter 10.4, 6, (D-3) states, in pertinent part:

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. Once the medical expenses of all such AG members have been totaled, the amount of the total in excess of \$35 is used as a medical deduction. There is no maximum dollar limit for the amount of a medical deduction. Thirty-five dollars (\$35) is deducted from the total amount of expenses for the AG, not \$35 from each person's expenses.

a. Allowable Expenses

- Medical and dental care including psychotherapy and rehabilitation services provided by a qualified health professional.

- Prescription and over-the-counter drugs, if prescribed by a qualified health professional. This includes postage and handling costs paid for mail-order prescription drugs.

- Fee paid by AG members for the member's enrollment in the Medicare Approved Drug Discount Program.

- Medicare Approved Drug Discount Card - Standard Drug Expense Allowance (SDEA). This benefit ended in May 2006.

NOTE: This expense allowance does not apply to prescriptions purchased with any other drug discount cards.

- Prorated Medicare Drug Program Transitional Assistance Credit. This benefit ended in December 2005.

- Medical supplies and equipment, if prescribed by a qualified health professional. Items may be either purchased or rented.

- Hospital or outpatient costs, nursing care and nursing facility care. This is also allowable if paid on behalf of an individual who was a member of the AG immediately prior to admission to a facility. The facility must be recognized by the State.

- Health and hospitalization insurance premiums, including long-term care, vision and dental insurance.

- Medical support service systems, if prescribed by a qualified health professional. Allowable costs are related to the purchase, rent and maintenance of the system. Examples of medical support service systems include, but not limited to, Lifeline Personal Response, Life Alert, etc.

NOTE: When the individual(s) who qualifies for a medical deduction has medical insurance under a policy which benefits other individuals who do not qualify for a medical deduction, only the portion of the insurance premium assigned to the individual(s) who qualifies for the deduction is considered. If specific information is not available about the eligible individual's premium amount, the premium is prorated among those covered by the insurance. This same procedure also applies when the policy holder does not qualify for a medical deduction, but another AG member does.

- Medicare premiums, except for cases in which the Department is paying the premium

- Dentures

- Hearing aids and batteries
 - Purchase and maintenance of prosthetic devices
 - Purchase and maintenance of a trained service animal which is required for a physical or mental disability and is prescribed by a doctor. This includes the cost of food and veterinarian bills for the service animal. Trained service animals may include seeing or hearing dogs, therapy animals to treat depression, animals used by persons with other disabilities such as epilepsy, paraplegia, etc. When the supervisor is unable to determine whether or not an animal meets the criteria or an animal-related expense is an appropriate deduction, he must contact the DFA Economic Services Policy Unit for clarification.
 - Prescription eyeglasses
 - Reasonable cost of transportation and lodging to obtain medical treatment or services. If a client can verify that a charge was made for transportation, but the provider will not state the amount, the current state mileage rate is allowed as a medical deduction.
 - Maintaining an attendant, homemaker, home health aid [*sic*], housekeeper or child care services necessary due to age, infirmity or illness. If the AG provides the majority of the attendant's meals, an amount equal to the maximum monthly coupon allotment for one person is also used as a medical deduction.
- NOTE:** When the expense qualifies as both a Dependent Care Deduction and a medical deduction, it must be considered a medical expense.
- Cost-sharing, such as co-payments and expenses used to meet the spenddown of a Medicaid recipient.

NOTE: Special diets and dietary supplements are not allowable medical expenses.

VIII. CONCLUSIONS OF LAW:

- 1) Policy states that countable income for the SNAP is determined by computing household income and subtracting all allowable deductions based on the household circumstances. 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. Policy provides a list of acceptable expenses for which a medical deduction can be allowed.

- 2) The Department determined that the Claimant's countable net household income of \$2,014.49 is excessive to receive SNAP benefits, as the net income limit for a four-person Assistance Group at the time of application was \$1,838. The cost of schooling provided to the Claimant's son at the Achievements facility does not qualify as an allowable medical deduction under SNAP policy.
- 3) Based on information and testimony presented during the hearing, the Department acted correctly in denying the Claimant's SNAP application and disallowing a medical deduction for her son's schooling.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny the Claimant's SNAP application.

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, 2011.

Pamela L. Hinzman
State Hearing Officer