



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
Raleigh District DHHR
407 Neville Street
Beckley, WV 25801

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

January 11, 2018

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2918/17-BOR-2929

Dear Mr. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Margaret Fain, [REDACTED] County DHHR

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BOARD OF REVIEW

██████████,

Appellant,

v.

Action Number: 17-BOR-2918 SNAP
17-BOR-2919 MEDICAID

WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on January 9, 2018, on an appeal filed December 4, 2017.

The matter before the Hearing Officer arises from the November 16, 2017, decision by the Respondent to terminate Supplemental Nutrition Assistance Program (SNAP) and Adult Medicaid benefits.

At the hearing, the Respondent appeared by Margaret Fain, Economic Service Supervisor. The Appellant appeared *pro se*. Appearing as witnesses were ██████████, the Appellant's wife and ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Verification Checklist dated October 31, 2017
- D-2 Employer Statement from ██████████ dated November 6, 2017
- D-3 Paystubs from ██████████ and ██████████
- D-4 Statement from ██████████ dated November 21, 2017
- D-5 Bank Statements from ██████████ Community Bank Checking Account ██████████
- D-6 Bank Statements from ██████████ Community Bank Savings Account ██████████

Appellant's Exhibits:

- A-1 2017 Income Tax Return Statement from H&R Block
- A-2 Cash Advances Transaction History
- A-3 Loan Agreement and Disclosure Statement from [REDACTED] dated July 10, 2017
- A-4 Purchase Agreement from [REDACTED] dated April 10, 2017, Dealer Funding Request from [REDACTED] Savings Bank dated April 10, 2017 and Automatic Payment Statement from Checking Account [REDACTED] to [REDACTED]
- A-5 Statement from [REDACTED] dated January 9, 2018

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant and his wife, [REDACTED] were recipients of Adult Medicaid benefits and SNAP benefits for themselves and their seven (7) children.
- 2) The Respondent's Front-End Fraud Unit investigated the Appellant's household and determined that the Appellant and his wife had unreported income.
- 3) The Respondent requested verification of the household's income and copies of bank statements to determine ongoing eligibility for SNAP and Medicaid (Exhibit D-1).
- 4) The Appellant submitted the requested income verification and bank statements to the Respondent on November 8, 2017 (Exhibits D-2, D-3, D-5 and D-6).
- 5) The Respondent determined the gross monthly income for the Appellant's household as \$5,785 based upon deposits made into the Appellant's checking and savings accounts.
- 6) The Appellant's SNAP and Adult Medicaid benefits were terminated effective November 30, 2017, due to excessive income.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §4.3.1.21.b states that the portion of a deposit made into a bank account intended for the use of a non-AG (Assistance Group) member is excluded income for SNAP.

West Virginia Income Maintenance Manual §4.3.1.43 states that Income Tax Returns are excluded income from SNAP.

West Virginia Income Maintenance Manual §4.3.43 states that loans are excluded income for SNAP if there is a verbal agreement to repay the loan.

West Virginia Income Maintenance Manual §4.3.2 states that Federal Tax Credits and Gifts/Loans are excluded income for Adult Medicaid (MAGI).

DISCUSSION

The Respondent determined that the Appellant's household had excessive income to continue receiving SNAP and Adult Medicaid benefits based upon the amount of deposits made into the Appellant's checking and savings accounts.

The Respondent contended that the following deposits exceeded the earned income on record for the Appellant and his wife and were added to their case (Exhibits D-5 and D-6):

February 17, 2017 \$1,330
February 21, 2017 \$2,100
February 24, 2017 \$4,000
March 13, 2017 \$2,500
March 27, 2017 \$1,700
April 17, 2017 \$3,750
May 2, 2017 \$1,605
May 11, 2017 \$1,500
July 12, 2017 \$3,000

The Appellant presented documentation of his Federal and State Income Tax returns for 2017, showing that his refund was \$9,453 which was received in January 2017 (Exhibit A-1). The money from the tax return was deposited onto a prepaid credit card by the Appellant's tax preparer. The Appellant testified that he would transfer money from the prepaid credit card into his checking account as needed throughout the year to cover various expenses. The Appellant stated that the February 21, February 24, March 13, March 27, and May 2 deposits were from his tax returns.

In February 2017, the Appellant received a personal loan from his employer, [REDACTED], for \$2,100 (Exhibit A-5). The Appellant testified that he deposited the \$2,100 into his checking account and later repaid Mr. [REDACTED] with his tax refund.

In April 2017, the Appellant's wife's uncle purchased a car from [REDACTED], where the Appellant is employed. The Appellant provided a statement from [REDACTED] indicating that they were unable to obtain financing of the car from the uncle's bank, and used the Appellant's bank instead. The sale price of the car, \$3,750, was deposited into the Appellant's account and was then immediately transferred to [REDACTED] (Exhibits D-4 and A-4).

The Appellant testified that he sold his motorcycle in May 2017, and deposited the \$1,500 he received from the sale into his checking account (D-5).

In July 2017, the Appellant refinanced his 2011 Chevrolet van. The total amount received from the loan was \$4,792 and the Appellant testified that he deposited \$3,000 from this loan into his checking account, to be repaid in monthly installments per the loan agreement (Exhibit A-2).

Pursuant to policy, income deposited into a SNAP AG's bank account that is intended for use by a non-AG member is exempt from SNAP. The \$3,750 deposited into the Appellant's bank account for the purchase of his uncle's car is exempt from SNAP.

Loans that are intended to be repaid are exempt from SNAP and Adult Medicaid. The personal loan of \$2,100 received in February 2017, and the loan from the refinancing of the van are exempt income.

Money received from income tax returns is exempt from SNAP and Adult Medicaid. The \$9,453 that the Appellant received from his tax refund is exempt income.

The Appellant provided documentation accounting for the deposits deemed excessive by the Respondent, and the money from these deposits are all exempted income in accordance with policy. The Respondent incorrectly counted exempted income for the Appellant's SNAP and Adult Medicaid benefits, thereby terminating the benefits in error.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, money received from income tax returns and loans are exempt income in determining eligibility for SNAP and Adult Medicaid benefits.
- 2) The Respondent added money received from the Appellant's income tax returns and loans to his case, closing SNAP and Adult Medicaid benefits due to excessive income.
- 3) Whereas exempt income was incorrectly counted in determining eligibility, the Appellant's SNAP and Adult Medicaid benefits were closed in error.

DECISION

It is the decision of the State Hearing Officer to **reverse** the decision of the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program and Adult Medicaid benefits. The case is hereby **remanded** back to the Respondent to determine ongoing eligibility based on non-excluded income.

ENTERED this 11th day of January 2018

Kristi Logan
State Hearing Officer