



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL**

**Jim Justice  
Governor**

**BOARD OF REVIEW  
416 Adams St.  
Suite 307  
Fairmont, WV 26554  
304-368-4420 ext. 79326**

**Bill J. Crouch  
Cabinet Secretary**

January 22, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NOS.: 17-BOR-2974 and 17-BOR-2975

Dear Ms. [REDACTED]

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

In arriving at a decision, the Board of Review is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources (DHHR). 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson  
State Hearing Officer  
State Board of Review

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

cc: Mark Mancino, [REDACTED] County DHHR

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

████████████████████,

**Appellant,**

v.

**ACTION NOS.:** 17-BOR-2974 and  
17-BOR-2975

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on January 10, 2018, on an appeal filed December 6, 2017.

The matter before the Hearing Officer arises from the November 14, 2017 decision by the Department to decrease the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits and deny Medicaid eligibility for Medicare Premium Assistance.

At the hearing, the Respondent appeared by Mark Mancino, Economic Service Worker. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**EXHIBITS**

**Department's Exhibits:**

- D-1 West Virginia Income Maintenance Manual (WVIMM) (October 2017) §4 Appendix C.2 Supplemental Nutrition Assistance Program (SNAP) Basis of Issuance; WVIMM (June 2017) §10 Appendix A-1 Income Limits
- D-2 Notice of SNAP benefit decrease, dated November 14, 2017; Notice of denial for Medicaid eligibility for Medicare Premium Assistance, dated November 14, 2017

**Appellant's Exhibits:**

None

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 following Findings of Fact are set forth.

**FINDINGS OF FACT**

*Supplemental Nutrition Assistance Program (SNAP):*

- 1) The Appellant was a recipient of SNAP benefits. On November 14, 2017, the Respondent issued a notice advising the Appellant that her monthly SNAP benefits would decrease from \$16 to \$15, because her income and medical expenses had increased. (Exhibit D-2)
- 2) During the hearing, the Appellant denied reporting any changes to medical expenses and the Respondent denied that any medical expense changes were reflected in the Appellant's record. The Respondent did not know why the notice indicated the Appellant's medical expenses had increased.
- 3) The Appellant is the only member of her Assistance Group (AG) and her unearned income totaled \$1,418. (Exhibits D-2 and D-3)
- 4) The Appellant received a \$160 Standard Deduction, the maximum Standard Deduction permitted by policy for a one-person AG. (Exhibits D-2 and D-3)
- 5) Individuals defined as elderly or disabled are eligible for a Medical Expense Deduction for expenses exceeding \$35. The Appellant met the criteria for the Medical Expense Deduction. (Exhibit D-3)
- 6) The Appellant's verified medical expenses included the Medicare Part B expense of \$109. The Appellant's medical expenses over \$35 amounted to a \$74 Medical Expense Deduction. (Exhibits D-2 and D-3)
- 7) The Respondent was advised by the Appellant during the hearing, that she had additional medical expenses for Medicare Parts C and D. The Appellant had not previously reported these expenses to the Respondent and did not provide verification of additional medical expenses during the hearing. Policy provides that the Respondent has the responsibility to send the Appellant a DFA-6 form requesting submission of verification information. (Exhibit D-3)

- 8) The Appellant was responsible for her home heating and cooling costs. Per policy, she was eligible for the maximum Standard Utility Allowance (SUA) in the amount of \$462 per month (Exhibits D-2 and D-3)
- 9) The Appellant was responsible for shelter costs in the amount of \$400 per month. (Exhibit D-3)
- 10) After the eligible deductions were applied to the Appellant's gross unearned income, the countable income used to determine her SNAP benefit allotment totaled \$914. (Exhibits D-2 and D-3)
- 11) The SNAP entitlement is \$15 for a one-person AG with a monthly net income of \$914.
- 12) The Appellant was categorically eligible for SNAP benefits. Policy provides that countable SNAP income for the purpose of determining level of benefit is calculated the same way it is for all other SNAP AGs. (Exhibit D-3)
- 13) The Appellant's income deductions, countable income, and SNAP benefit allotment were correctly calculated. (Exhibits D-1 through D-3)

*Medicaid:*

- 1) The Appellant applied for Medicaid eligibility for Medicare Premium Assistance. On November 14, 2017, the Respondent issued a notice advising that the Appellant was denied eligibility because her income was more than the income limit to receive Medicaid benefits. (Exhibit D-2)
- 2) The Appellant is the only member of her Assistance Group (AG) and her unearned income totaled \$1,418. (Exhibits D-2 and D-3)
- 3) The Appellant received a SSI \$20 income disregard. When the disregard was applied to the Appellant's income, her monthly countable income totaled \$1,398. (Exhibit D-2)
- 4) To be eligible for Medicare Premium Assistance, the Appellant's monthly countable income had to fall below \$1,357. The Appellant was \$41 over the Medically Needy Limit to qualify for Medicaid benefits. (Exhibit D-2)
- 5) The Appellant was not eligible for any additional deductions. Her income disregard, countable income, and Medicaid eligibility were correctly calculated. (Exhibits D-2 and D-3)

## **APPLICABLE POLICY**

*Supplemental Nutrition Assistance Program (SNAP):*

### **West Virginia Income Maintenance Manual (WVIMM) §4.4.3. A Determining Eligibility provides in part:**

When at least one Assistance Group (AG) member is elderly, which is at least age 60, or disabled as specified in Section 13.15, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. here is no gross income test.

### **WVIMM §7.2.1 When Verification is Required provides in part:**

Verification of a client's statement is required when:

- Policy requires routine verification of specific information.
- The information provided is questionable. To be questionable it must be: ...
  - Inconsistent with the information in the case file; or...
  - Outdated.

### **WVIMM §7.2.4 Worker Responsibilities provides in part:**

The worker has the following responsibilities in the verification process: ...

- When the worker receives information about the SNAP AG during the certification period that requires additional clarification or verification, the worker may send a DFA-6 or may request, but not require, the client report to the office for an interview.

### **WVIMM §9.2.1 DFA-6, Notice of Information Needed provides in part:**

The DFA-6 may be used during any phase of the eligibility determination process... It is given or mailed to the applicant to notify her of information or verification she must supply to establish eligibility...

This form also notifies the client that her application will be denied or a deduction disallowed, if she fails to provide the requested information by the date specified on the form...

### **WVIMM §4.4.3. B Determining Countable Income provides in part:**

The following steps are used to determine countable income for cases meeting the eligibility tests above.

- Step 1: Combine monthly gross countable earnings and monthly gross profit from self-employment.
- Step 2: Deduct 20% of Step 1.

- Step 3: Add the gross countable unearned income...
- 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/ Standard Utility Allowance (SUA) amount.
- Step 10: At least one person elderly or disabled: If the shelter/SUA is equal to or less than Step 9, no further computation is needed. The amount from Step 8 is the countable income. If the Shelter/ SUA is 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 countable income.
- Step 11: Compare the countable income to the maximum net income in Appendix A for the AG size...

**WVIMM §4.4.2 SNAP Income Disregards and Deductions provides in part:**

Certain items may be allowed as income deductions to arrive at an Assistance Group's (AG) countable income, even if the payment is made from assets. To receive a deduction, the expense must:

- Not be an educational expense;
- Be billed or be due during the certification period in which the deduction is claimed;
- Be obligated to be met by the AG's own resources; and
- Be owed to an individual not included in the AG to receive a deduction...

**WVIMM §4.4.2. A Effective Date of Deduction provides in part:**

When a client fails to report household expenses that 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. See Section 10.4...

**WVIMM §4.4.2. B Allowable Disregards and Deductions provides in part:**

- 2. *Standard Deduction:* 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...
- 6. *Medical Expenses:* Medical Expenses exceeding \$35 must be allowed as a medical deduction for AG members who are elderly, which is at least 60, or disabled, as defined in Section 13.15. Once the medical expenses of all such AG members have been totaled, the amount of the total exceeding \$35 is used as a medical deduction. Thirty-five dollars (\$35) is deducted from the total amount of expenses for the AG... There is no maximum dollar limit for a medical deduction.

*Allowable Expenses:* Only medical costs that are not reimbursable through a third party (insurance, Medicaid, etc.) are deducted. The deduction cannot be granted until the reimbursable portion of the expense is known...

- Health...insurance premiums, including long-term care, vision, and dental insurance...
- Medicare premiums, except when the DHHR is paying the premium...

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 exceed 50% of the remaining income, the amount exceeding 50% is deducted. The deduction cannot exceed the shelter/ utility cap found in Appendix B.

*EXCEPTION:* The cap on the shelter/ utility deduction does not apply when the SNAP AG includes an individual who is elderly or disabled, as defined in Section 13.15

#### **WVIMM §4.4.2.C Shelter Expenses provides in part:**

Items considered in arriving at shelter expenses are the continuing amounts of:

- Rent. Security or damage deposits are not shelter expenses...

#### **WVIMM §4.4.2. C.1 Standard Utility Allowance (SUA) provides in part:**

SUAs are fixed deductions that are adjusted yearly to allow for fluctuations in utility expenses... The current SUA amounts are found in Appendix B. AGs that are obligated to pay from their resources a utility expense that is billed separately from their shelter expenses are eligible for an SUA deduction...

*Heating/Cooling Standard (HCS):* To be eligible for the HCS, the AG must meet the following criteria:

- AGs that are obligated to pay a heating or cooling expense that is billed on a regular basis are eligible for the HCS...
- To qualify for the HCS, the heating or cooling expense must be for the primary source of heating or cooling...

#### **WVIMM §4.4.3.C Determining the Amount of the Benefit provides in part:**

To determine the SNAP allotment, find the countable income and the number in the AG in Appendix C, Basis of Issuance. One- and two-person AGs who meet the gross and net income test or who are categorically eligible, as defined in Section 1.4.17.C automatically receive the minimum benefit...

#### **WVIMM§1.4.17. C Categorical Eligibility provides in part:**

When an AG has a least one member who is authorized to receive benefits from

TANF-funded programs or is authorized to receive information and referral services about TANF and other department programs, the AG is categorically eligible...

The following AGs are authorized to receive information and referral services:

- AGs in which all adult members are elderly or disabled with no earned income or only excluded earned income with income at or below 200% of the Federal Poverty Level (200%)
- AGs with income at or below 130% of the FPL

**WVIMM §4.4.4. A Categorical Eligibility provides in part:**

Although there is no gross or net income test, countable SNAP income for the purposes of determining level of benefit is calculated the same way it is for all other SNAP AGs.

*Medicaid:*

**WVIMM §4.12.1 Determining Eligibility for Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLIM), or Qualifying Individuals (QI) provides in part:**

Countable income is determined by subtracting any allowable disregards and deductions from the total countable gross income. Deemed income is addressed in Section 4.12.2...

Countable income is determined as follows:

- Step 1: Determine the total countable gross unearned income and subtract the appropriate disregards and deductions. See Section 4.14.2
- Step 2: Determine the total countable gross earned income and subtract the appropriate disregards and deductions. See Section 4.14.2
- Step 3: Add the results from Step 1 and Step 2 to achieve the total monthly countable income.
- Step 4: Compare the amount in Step 3 to the QMB, SLIMB, or QI-1 income levels for the appropriate number of persons. See Section 4.14 for SSI-Related deeming procedures.

If the amount is less than or equal to the QMB, SLIMB, or QI-1 income levels, the client is eligible.

Eligibility for these coverage groups is determined as follows: See Appendix A

- QMB- Income is less than or equal to 100% Federal Poverty Level (FPL)
- SLIMB- Income is greater than 100% FPL, but less than or equal to 120%FPL



- QI-1- Income is greater than 120% FPL, but less than or equal to 135% FPL

**WVIMM §4.14.2. B.1 SSI-Related Medicaid Unearned Income Disregards and Deductions provides in part:**

SSI \$20 Disregard: A \$20 disregard is applied to the total gross unearned income. If unearned income is less than \$20, the remainder is subtracted from earned income, prior to the application of any other earned income disregards and deductions.

**DISCUSSION**

*Supplemental Nutrition Assistance Program (SNAP)*

The Appellant was a recipient of SNAP benefits. On November 14, 2018, the Respondent issued a notice to the Appellant advising that her SNAP benefits were being reduced because of an increase in income. The Appellant contested the amount of income deductions being applied to determine the amount of her SNAP benefit allotment.

The Respondent had to demonstrate by a preponderance of evidence that it correctly applied policy in calculating the Appellant's income deductions and SNAP benefit allotment. The Appellant's monthly unearned income totaled \$1,418.

Policy identifies \$160 as the appropriate Standard Deduction for a one-person Assistance Group (AG):

Total Income:	\$1,418
	- 160 Standard Deduction
	<u>\$1,258</u>

The Appellant's verified medical expenses included the Medicare Part B expense of \$109. Policy allows for medical expenses exceeding \$35 to be included in the Medical Expense Deduction.

Appellant's Medicare Part B Expense:	\$109
	- 35
	<u>\$ 74 Medical Expense Deduction</u>

Income Less Standard Deduction:	\$1,258
Medical Expense Deduction:	- 74
	<u>\$1,184 Income Less Medical Expense Deduction</u>

To determine countable income, policy instructs the Respondent to calculate 50% of the remaining income and compare it to the actual monthly shelter cost and Standard Utility Allowance (SUA).

Income Less Medical Expense Deduction:	\$1,184	
	<u>x .50</u>	
	\$ 592	Half of the Appellant's remaining income

Per policy, the maximum SUA able to be awarded to the Appellant was \$462.

Appellant Shelter Cost:	\$400
SUA:	<u>+462</u>
	\$862 Combined Shelter/Utility Cost

The combined shelter/ utility cost total of \$862 was greater than 50% of the Appellant's remaining income. To arrive at the Shelter/Utility Deduction amount, the amount of shelter/utility cost exceeding 50% of the Appellant's remaining income is determined.

Combined Shelter/Utility Cost:	\$862
50% of Income After Deductions:	<u>-592</u>
	\$270 Shelter/Utility Deduction

Policy provides that for a one-person AG that contains an elderly member, the amount exceeding 50% is deducted, without regard to the shelter/utility cap to arrive at countable income.

Income Less Medical Expense Deduction:	\$1,184
Shelter/Utility Deduction:	<u>- 270</u>
	\$ 914 Countable Income

The net income test did not apply because the Appellant was categorically eligible. The SNAP benefit allotment awarded to the Appellant of \$15 for a one-person AG with net income of \$914 was correct.

Because the Appellant had not previously reported and verified her Part C and Part D Medicare expenses, the Respondent was unable to consider the expenses when calculating the Medical Expense Deduction. Pursuant to policy, because the Appellant reported the additional medical expenses to the Respondent during the fair hearing, the Respondent has the responsibility to issue a notice to the Appellant requesting verification of the additional medical expenses. The Appellant has a right to the additional Medical Expense Deductions once the expenses are appropriately verified.

#### *Medicaid:*

The Appellant applied for Medicaid benefits for Medicare Premium Assistance. On November 14, 2017, the Respondent issued a notice advising that the Appellant was denied eligibility because her income was more than the income limit to receive Medicaid benefits. The Appellant contested the amount of income disregards applied to determine countable income used to determine her eligibility.

The Respondent had to demonstrate by a preponderance of evidence that it correctly applied policy in calculating the Appellant's countable income to determine Medicaid benefit eligibility. The Appellant's countable gross unearned income totaled \$1,418. The Respondent applied an SSI \$20 income disregard to the Appellant's gross unearned income; no evidence was presented to demonstrate that the Appellant qualified for additional income disregards. After the application of the \$20 income disregard, the Appellant's total monthly countable income was \$1,398. Pursuant to policy, to be awarded Medicaid eligibility for Medicare Premium Assistance, the Appellant's countable income must be less than or equal to \$1,357. The Respondent correctly determined that the Appellant was not eligible for Medicaid benefits because her income exceeded the 135% Federal Poverty Level by \$41.

### **CONCLUSIONS OF LAW**

- 1) The Appellant is the only member of her Assistance Group (AG) and her unearned income totaled \$1,418.
- 2) Based on the Appellant's countable income of \$914, policy provides that the monthly Supplemental Nutrition Assistance Program (SNAP) benefit entitlement for the Appellant's one-person AG is \$15.
- 3) The Respondent correctly calculated the Appellant's income deductions and countable income when determining the Appellant's \$15 SNAP benefit allotment.
- 4) The Appellant's countable income to determine eligibility for Medicare Premium Assistance was \$1,398. Policy provides that to be eligible for Medicare Premium Assistance, the Appellant's monthly countable income had to fall below \$1,357. The Appellant was \$41 over the Medically Needy Limit to qualify for Medicaid benefits.
- 5) The Respondent correctly calculated the Appellant's income disregard and countable income when determining the Appellant's eligibility for Medicaid benefits for Medicare Premium Assistance.

## **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Department's decision to award the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefit allotment as outlined in the November 14, 2017 notice. Further, it is the decision of the State Hearing Officer to **UPHOLD** the Department's decision to deny the Appellant Medicaid eligibility for Medicare Premium Assistance as outlined in the November 14, 2017 notice.

ENTERED this 22nd day of January 2018.

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**Tara B. Thompson**  
State Hearing Officer