



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street, West  
Charleston, WV 25313

Joe Manchin III  
Governor

Patsy A. Hardy, FACHE, MSN, MBA  
Cabinet Secretary

December 9, 2009

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held December 2, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to update your case to reflect a change in Shelter/Utility deduction, thereby determining you are eligible for fifty nine dollars (\$59.00) SNAP effective October 2009.

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 and benefit amounts for SNAP are based on current policy and regulations. Some of these regulations state that for SNAP, a deduction is allowed for legally obligated child support actually paid by an AG member to an individual not residing in the same household. (WV Income Maintenance Manual Section 10.4.B.4) In determining the amount of the shelter deduction for SNAP, both property taxes and insurance on the structure and lot is considered. (WV Income Maintenance Manual Section 10.4.B.7) When a client fails to report household expenses which 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. (WV Income Maintenance Manual Section 10.4.B)

The information submitted at your hearing reveals that you did not report that you have a homeowner's insurance expense, a real estate tax expense, and increased child support obligations prior to the Department's September 12, 2009 decision to increase your SNAP effective October 2009; therefore, you are not entitled to a deduction for those expenses for that period. However, now that you have reported and verified those expenses you are entitled to receive consideration for them in the SNAP eligibility process.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in its determination that you are eligible for SNAP in the amount of fifty nine dollars (\$59.00) effective October 2009. The Department is, however, directed to implement the newly reported expenses into the SNAP eligibility determination effective January 2010.

Sincerely,

Cheryl Henson, State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Maureen Rogers, Kanawha DHHR

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

-----,

**Claimant,**

**v.**

**Action Number: 09-BOR-2108**

**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 December 9, 2009 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 December 2, 2009 on a timely appeal filed October 6, 2009.

It should be noted that the Claimant's SNAP has been continued pending the outcome of this hearing.

**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 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, representing herself  
Sheree Smith, Economic Service Supervisor, representing the Department

Presiding at the Hearing was Cheryl Henson, 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 was correct in its decision to increase the Claimant's SNAP to fifty nine dollars (\$59.00) effective October 2009.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual §10.4.B

**VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

**Department's Exhibits:**

None

**Claimant's Exhibits:**

C-1 Copies of tax receipts, bank balances, and court order

**VII. FINDINGS OF FACT:**

- 1) The Claimant was actively receiving SNAP, formerly known as Food Stamps, as a one (1) person household on September 12, 2009 when the Department updated his case due to a change in the Standard Utility Allowance which increased his Shelter/Utility Deduction effective October 2009. The issue for this hearing is whether this change, which increased the Claimant's SNAP from fifty dollars (\$50.00) to fifty nine dollars (\$59.00) effective October 2009, was correctly calculated.
- 2) The Claimant's SNAP had been calculated prior to this update based on Veteran's disability income in the amount of nine hundred thirty one dollars (\$931.00) per month as his only income. He was receiving a shelter deduction for paying a mortgage payment of two hundred seventy nine dollars and forty three cents (\$279.43), and a Standard Utility Allowance amount for his utility obligation. He also was receiving a child support obligation deduction in the amount of twenty five dollars (\$25.00) monthly. He was not receiving a medical expense deduction, and claimed during the hearing that he had no such expense.
- 3) The Department contends that the SNAP for this Claimant was calculated correctly on September 12, 2009, which resulted in the Claimant's SNAP being increased from fifty dollars (\$50.00) to fifty nine dollars (\$59.00) effective October 2009. The Department contends that the Claimant was given all deductions based on the information he provided during his previous review interview.

- 4) The Claimant contends that the Department is not calculating his SNAP eligibility correctly, and that his SNAP eligibility amount should be more than fifty nine dollars (\$59.00) monthly.
- 5) The Department reported the Claimant received a child support obligation deduction in the amount of twenty five dollars (\$25.00); however, the Claimant testified that he pays fifty dollars (\$50.00) per month in court ordered child support. He does not recall whether he reported or was asked this question during his prior review. The Department Representative, Sheree Smith, who is a Supervisor for the Department's Income Maintenance Unit, informed the Claimant during the hearing that if he could provide verification of this expense the Department would increase his child support obligation deduction to fifty dollars (\$50.00).
- 6) The Department reported the Claimant received credit for a shelter obligation in the amount of two hundred seventy nine dollars and forty three cents (\$279.43) which is the amount of his mortgage payment; however, the Claimant testified that he also pays approximately one hundred forty four dollars (\$144.00) quarterly for mortgage insurance and real estate property taxes which was not considered by the Department. He does not recall whether he reported this information. Ms Smith again informed the Claimant that if he provided this verification to the Department, his shelter obligation could be increased accordingly.
- 7) The record was left open until December 9, 2009 to allow the Claimant time to present written evidence to support his claims for deductions. The Claimant provided documents (C-1) which include a copy of taxes paid to ██████████ County for his real property in the amount of seventy one dollars and twenty cents (\$71.20). Also included was evidence of a court ordered child support obligation from the Family Court of ██████████ County which orders him to pay child support in the amount of fifty dollars (\$50.00) per month. The child support is ordered to be collected by wage withholding. In addition, the Claimant submitted an invoice (C-1) from Evans Insurance Agency which provides that he is obligated to pay a total of five hundred sixty eight dollars and eleven cents (\$568.11) yearly for homeowner's insurance.
- 8) The West Virginia Income Maintenance Manual §10.4,B states in pertinent part:

#### INCOME DISREGARDS AND DEDUCTIONS

Certain items may be allowed as income deductions to arrive at an AG's countable income. The expense must be billed or be due during the certification period in which the deduction is claimed. In addition, deductions from the AG's income are applied only if the expense is obligated to be met by the Ag's own resources. The AG's obligation must be to an individual not included in the AG to receive a deduction.

An expense does not have to be paid to be a deduction.

NOTE: When a client fails to report household expenses which 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.

#### 4. Child Support Deduction

A deduction is allowed for legally obligated child support actually paid by an AG member or disqualified individual to an individual not residing in the same household.

In West Virginia, legally obligated means the child support is the result of a circuit or magistrate court order, an order issued by administrative proves, or a legally enforceable separation agreement. For orders issued in other states, any order that would be upheld by a Judge in a court of law is considered legally obligated.

A deduction is allowed based only on payments actually made, not the legally obligated amount, and may not exceed the legal obligation.

## 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 [sic] 50% of the remaining income, the amount in excess of 50% is deducted.

### a. Shelter Costs

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

- Rent.
- Mortgage payments
- Interest on mortgage payments
- Condominium and association fees
- Payments paid to an escrow account that has been established to pay property taxes and homeowner's insurance
- Property taxes and special tax assessments on the structure and lot required by State or local law.
- Insurance on the structure and lot. This does not include insurance on furniture or personal belongings.
- Cost of repairing the home which was damaged or destroyed due to a natural disaster or misfortune including, but not limited to, fire, flood or freezing temperatures. This does not include charges that will be or have been reimbursed from any source such as insurance, private agency, etc.

## **VIII. CONCLUSIONS OF LAW:**

- 1) Policy provides that SNAP benefits are calculated by beginning with the total gross income, and subtracting certain deductions and disregards to arrive at a final net monthly countable income. In order to receive a deduction for an expense, the expense must be reported and verified prior to receiving the deduction. Failure of an individual to report and verify an expense results in the loss of entitlement to that deduction.
- 2) Although the Claimant has satisfactorily shown that he is responsible for certain expenses that were not considered for deductions when this SNAP case was updated, the information is not relevant to the issue of this hearing because the information was not available at the time of the Department's September 12, 2009 action. The Claimant clearly had not reported the information prior to the Department's action, and policy states that failure of an individual to report and verify an expense results in the loss of entitlement to that deduction.
- 3) The Department has correctly calculated the Claimant's SNAP allotment effective October 2009 to be fifty nine dollars (\$59.00).
- 4) Policy also states that once an expense is reported and verified, when required by policy, the individual has a right to the deduction. Therefore, since the Claimant has provided evidence during this hearing that reveals certain other eligible expenses that may be considered, the Department is directed to implement this information effective January 1, 2010 in evaluating the Claimant's continued eligibility and amount of SNAP benefits.

## **IX. DECISION:**

It is the decision of the State Hearing Officer to **uphold** the Department's September 12, 2009 action to increase the Claimant's SNAP to fifty nine dollars (\$59.00) effective October 2009. The Department is directed to consider the newly reported and verified expense obligations in determining SNAP eligibility effective January 2010. Those reported expenses include an obligation to pay homeowner's insurance in the amount of five hundred sixty eight dollars and eleven cents (\$568.11) yearly, real estate property taxes in the amount of seventy one dollars and twenty cents (\$71.20) yearly, and an increased child support monthly obligation in the amount of fifty dollars (\$50.00).

## **X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 9<sup>th</sup> Day of December 2009,**

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**Cheryl Henson  
State Hearing Officer**