



**State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General**

**Board of Review**  
P.O. Box 1736  
Romney, WV 26757

**Joe Manchin III  
Governor**

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

May 3, 2010

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 29, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your Supplemental Nutrition Assistance Program benefits due to the loss of a medical expense deduction.

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 Supplemental Nutrition Assistance Program or SNAP is based on current policy and regulations. These regulations provide that individuals age sixty or above or who have been determined disabled may attribute acquired medical expenses in excess of \$35.00 toward the calculation of their countable income in determination of the appropriate SNAP allotment. Allowable medical expenses that can be considered for medical deductions include medical and dental care, prescription and over-the-counter drugs, fees for the member's enrollment in the Medicare Approved Drug Discount Program, Medicare Approved Drug Discount Care, Prorated Medicare Drug Program Transitional Assistance Credit, Medicare premiums (except for cases in which the Department is paying the premium), dentures, hearing aids and batteries, prosthetic devices, trained service animals, and prescription eyeglasses. (West Virginia Income Maintenance Manual § 10.4)

The information which was submitted at your hearing revealed that the Department pays for your Medicare premium under the Specified Low Income Medicare Beneficiary program and you are no longer obligated to pay for this expense; therefore a medical expense deduction can no longer be allowed in the determination of your SNAP allotment.

It is the decision of the State Hearing Officer to Uphold the proposal of the Department to reduce your SNAP benefits.

Sincerely,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review  
Ann Hubbard, ESS

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-1130**

**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 May 3, 2010 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 April 29, 2010 on a timely appeal, filed March 31, 2010.

It should be noted here that the Claimant's benefits under the Supplemental Nutrition Assistance Program continue at the previous level of determination pending a decision from the State Hearing Officer.

**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  
Penny Tinsman, Economic Service Worker

Presiding at the Hearing was Eric L. Phillips, State Hearing Officer and a member of the Board of Review.

This hearing was conducted by video conference.

**IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct in its proposal to reduce the Claimant's SNAP benefits.

**V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual § 10.4

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

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Notice of Decision dated March 18, 2010
- D-3 Computer printout of Food Stamp Allotment Determination for March 2010 and April 2010
- D-4 West Virginia Income Maintenance Manual § 10.4

**VII. FINDINGS OF FACT:**

- 1) The Claimant is a current recipient of the Supplemental Nutrition Assistance Program, hereinafter SNAP. Exhibit D-3, Computer printout of Food Stamp Allotment Determination for March 2010, documents that the Claimant received a total gross income of \$1041.00 from Social Security Administration benefits. Additionally, the exhibit documents that the Claimant was receiving an allowable medical deduction of \$61.40 which was attributed to the Claimant's SNAP calculation. This amount was derived from the Claimant's total medical cost of a \$96.40 (Medicare Premium) exceeding the \$35.00 minimum deduction amount. After all allowable deductions, the Claimant's SNAP benefits were calculated to be \$107.00 for March 2010.
- 2) Penny Tinsman, Economic Service Worker, testified that on March 17, 2010, it was discovered that the Claimant had been approved for the Specified Low Income Medicare Beneficiary, hereinafter SLIMB, program. Testimony indicated that the SLIMB program is offered by the Department to assist eligible individuals with the payment of their Medicare premium expenses. Ms. Tinsman stated that since the Department was paying the Claimant's entire Medicare premium through the SLIMB program a medical deduction in the Claimant's SNAP calculation was no longer warranted as the Claimant was not responsible for the payment of his Medicare premium of \$96.40. On March 18, 2010, the medical deduction of \$61.40 was removed and the Claimant's SNAP benefits were decreased, with the proposed action to take effective April 2010.
- 3) On March 18, 2010, the Department issued Exhibit D-2, Notice of Decision, to the Claimant. This notice documents in pertinent part:

Action: Your SNAP will decrease from \$107.00 to \$80.00 effective 4/1/10.

Reason: Your medical expenses are less.

Policy: West Virginia Income Maintenance Manual Section 10.4

- 4) The Claimant testified that a reduction in the amount of his SNAP benefits will create difficulties in his ability to purchase groceries. The Claimant purported that he has experienced a decrease in the total amount of his SNAP benefits for the last two years and questioned why his benefits continue to be reduced when he has reported no major changes to his household circumstances. The Claimant questioned why the issue regarding his Medicare premium was just recently addressed when he has been a recipient of the SLIMB program for some time and continued to be awarded the medical expense deduction. Additionally, the Claimant stated that he does not recall being informed by the Department that an approval of SLIMB benefits would adversely affect his amount of SNAP benefits.
- 5) West Virginia Income Maintenance Manual § 10.4, Exhibit D-4, documents:

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 dictates that an individual's obligated expenses can be allowed as an income deduction in the determination of countable income attributed to the SNAP Program. Policy further dictates that an elderly or disabled individual's qualifying medical expenses in excess of \$35.00 must be allowed as a medical deduction in determining an appropriate SNAP benefit amount. Additionally, policy states that Medicare premiums may be used as a medical expense, except in cases in which the Department is paying the premium as the individual is not obligated to pay for such expense.
- 2) The Claimant was approved for SLIMB benefits which relieved his obligation to pay for his Medicare premium. As the Department is paying the Claimant's Medicare premium, a medical deduction is no longer warranted in the calculation of SNAP benefits; therefore the Department's decision to reduce the Claimant's SNAP amount from \$107.00 to \$80.00 is correct.

### **IX. DECISION:**

It is the decision of the State Hearing Officer to uphold the Department's proposal to reduce the Claimant's SNAP benefit due to the loss of a medical expense deduction.

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

See Attachment

### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this \_\_\_\_ day of May 2010.**

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**Eric L. Phillips**  
**State Hearing Officer**