



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

Earl Ray Tomblin
Governor

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

June 6, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held June 5, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to deny your eligibility for Supplemental Nutrition Assistance Program [SNAP] benefits.

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 levels for SNAP benefits are based on current policy and regulations. Some of these regulations state that when at least one AG (Assistance Group) member is elderly (at least age 60) or disabled, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. There is no gross income test. Garnished income is counted for SNAP purposes. Additionally, medical expenses in excess of thirty-five dollars (\$35.00) monthly are allowed as a deduction from income for elderly or disabled individuals when determining countable income. (West Virginia Income Maintenance Manual §10.4)

The information submitted at your hearing supports that \$171.50 is being garnished from your husband's Social Security benefits monthly to repay a SNAP overpayment and that this garnished income is countable for SNAP. During the application process, the Department did not discuss with you whether you had deductible medical expenses and did not allow a medical deduction. There are four (4) disabled individuals in your AG.

It is the decision of the State Hearing Officer to **reverse** the Department's denial of your March 30, 2012 application for SNAP. The case is hereby **remanded** to the Department for development of the record. The Department will reevaluate the Claimant's eligibility from the date of application after first providing the Claimant with an opportunity to provide evidence of allowable medical expenses for a possible medical deduction. The Department will then compare countable income to the SNAP net income limit. The Claimant will have appeal rights should the Department's new decision be a denial.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review /Tera Pendleton, Kanawha DHHR

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1061

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on June 5, 2012.

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

-----, Claimant's witness

Tera Pendleton, Department representative

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 deny the Claimant's eligibility for SNAP benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual§ 10.4 and Appendix A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case comments from Department's computer system dated from April 5, 2012 through April 20, 2012
- D-2 Unearned Income screens from Department's computer system
- D-3 Food Stamp Allotment Determination computer screen
- D-4 Income Chart from Department's computer system
- D-5 Notice of Decision dated April 6, 2012
- D-6 Garnishment notice dated February 3, 2012, Claim Payment History screen, West Virginia Income Maintenance Manual pages from Section 20.2, Notice of Decision from Department dated July 21, 2011

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant applied for Supplemental Nutrition Assistance Program (SNAP) benefits on or about March 30, 2012. The Department denied the Claimant's application and sent her a notification letter (D-5) on or about April 6, 2012, which included the following pertinent information:

ACTION: Your 03/30/12 application for SNAP has been DENIED.

REASON: Income is too much for you to receive benefits.

Income is more than the income limit for you to receive benefits.

Your Gross Income.....2507.00
SNAP Gross Income Limit.....2422.00
Net Countable Income.....2352.00

SNAP Net Income Limit.....1863.00

- 2) The Department contends that it properly evaluated the Claimant's eligibility for SNAP and determined that the Claimant's total gross income of \$2507.00 exceeds the SNAP Gross Income Limit of \$2422.00 for a four (4) person household, thereby making the Claimant ineligible for the program.
- 3) The parties agree that the Claimant's household consists of four (4) individuals and that the total household income is \$2507.00 derived from Social Security benefits for the family. The parties agree that the Claimant's shelter expense is \$651.00 and their utility allowance is \$355.00. The parties agree that \$171.50 is deducted monthly (D-6) from the Claimant's husband's Social Security benefit to repay a SNAP overpayment. The Department clarified that the overpayment is considered to be a client error, but not an intentional program violation.
- 4) The Claimant contends that the Department should have deducted the monthly garnished SNAP repayment of \$171.50 from the household's countable income when determining SNAP eligibility because this garnished amount was not available to her family. She added that she reported this information at the time of application, but that the worker told her it did not make any difference and that the income would be counted in full.
- 5) The Claimant also contends that the Department did not allow her to present evidence of medical expenses to be considered as deductions when determining the household's eligibility for SNAP. She stated that all four (4) household members are disabled, adding that her two (2) children are diagnosed with autism. The Claimant stated that the household's monthly medical expenses exceed \$350.00 monthly; she did not know the exact amount of monthly expenses and the figure she provided is an estimate. She stated that the worker told her that it did not matter because the household was "over income" for SNAP. The Department presented no evidence to support that the medical expense deduction was considered when determining the Claimant's eligibility. Case comments regarding the application process (D-1) were entered April 5, 2012, and they do not speak as to whether the medical expense deduction was considered.
- 6) The West Virginia Department of Health and Human Resources Income Maintenance Manual §10.4,B, states that certain items may be allowed as deductions to arrive at the AG's (Assistance Group) countable income. The medical expenses in excess of \$35.00 of all elderly or disabled AG members must be allowed as a medical deduction from countable income. There is no maximum dollar limit on this deduction.
- 7) The West Virginia Department of Health and Human Resources Income Maintenance Manual §10.4.D, 13, specifies that the certain income that is withheld due to garnishment is counted for SNAP purposes.
- 8) The West Virginia Department of Health and Human Resources Income Maintenance Manual §10.4,C, and Appendix A, provide that when at least one AG member is elderly (at least age 60) or disabled, eligibility for SNAP is determined by comparing the countable income to the maximum net monthly income found in Appendix A. Appendix A provides that for an AG of four (4), the maximum net monthly income is \$1863.00.

VIII. CONCLUSIONS OF LAW:

- 1) Policy specifies that certain income withheld as garnishment is counted as income for SNAP purposes. The income being withheld from the Claimant's husband's Social Security income is subject to this policy, and is therefore countable.
- 2) Policy also specifies that the medical expenses in excess of \$35.00 of all elderly or disabled AG members must be allowed as a medical deduction. The evidence supports that all four (4) AG members in this case are either elderly or disabled, and that the AG has medical expenses in excess of \$35.00 monthly. The medical expenses of all four (4) household members must be considered. The Claimant was not given an opportunity to provide medical expenses for consideration of this medical deduction.
- 3) Policy also specifies that when at least one AG member is elderly (at least age 60) or disabled, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. There is no gross income test. The maximum net monthly income for an AG of four (4) is \$1863.00.
- 4) Based on the information provided during this hearing, the Department was not correct in its decision to deny the Claimant's SNAP application based on excessive gross income. The Department was not correct in its decision to disallow consideration of medical expenses for a possible deduction from countable income before determining eligibility for SNAP. The Department was correct to count the Claimant's husband's garnished income as countable income.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the action of the Department in denying the Claimant's SNAP application. The case is **remanded** to the Department for development of the record. The case will revert to the application phase and the Department will make a new decision on the March 30, 2012 application after consideration of all possible deductions, including the medical deduction, and then compare the Claimant's total countable income to the net income limit to determine whether the Claimant is eligible for SNAP. Should the Department's new decision be adverse, the Claimant will have appeal rights to that adverse decision.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 6th Day of June 2012.

**Cheryl Henson
State Hearing Officer**