



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

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

June 19, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held June 7, 2012. Your hearing request was based on the Department of Health and Human Resources' determination of your Supplemental Nutrition Assistance Program (SNAP) benefits based on allowable income disregards and deductions.

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 SNAP is based on current policy and regulations. Some of these regulations state that assistance groups that do not qualify for the Heating/Cooling Standard or the Non-Heating/Cooling Standard, but incur one utility expense, are eligible for the One Utility Standard (West Virginia Income Maintenance Manual, Chapter 10.4.B.7.b(3)).

The information submitted at your hearing revealed that the Department correctly determined your SNAP benefit amount based on applying the One Utility Standard as your allowable utility deduction.

It is the decision of the State Hearing Officer to **uphold** the Department's determination of your SNAP benefit level.

Sincerely,

Todd Thornton
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Cory Collins, Department Representative

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1159

**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 June 19, 2012, 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 June 7, 2012, on a timely appeal filed May 1, 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
Cory Collins, Department representative

All persons offering testimony were placed under oath.

Presiding at the Hearing was Todd Thornton, State Hearing Officer and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department used the correct utility deduction in the determination of the Claimant's SNAP benefit level.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 10.4.B.7.b

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Lease agreement
- D-2 West Virginia Income Maintenance Manual, Chapter 10.4.B.7.b
- D-3 West Virginia Income Maintenance Manual, Chapter 10, Appendix B
- D-4 Food Stamp (SNAP) Allotment Determination form

VII. FINDINGS OF FACT:

- 1) The Claimant, a SNAP recipient, has appealed a proposed reduction in his SNAP benefit level from \$101 to \$26 monthly. Cory Collins, representative for the Department, testified that this reduction was due to the Department's determination of the appropriate utility deduction for the Claimant's assistance group (AG). He testified that this deduction was a type of Standard Utility Allowance (SUA) for AGs that incur one utility expense separately billed from their rent – the One Utility Standard (OUS). He presented the Food Stamp Allotment Determination screen print (Exhibit D-4) for the Claimant's case, showing the calculation of \$26 in monthly SNAP benefits based on this deduction – labeled as utility standard – in the amount of \$61. (It should be noted that SNAP was formerly known as the Food Stamp Program, and Exhibit D-4 refers to SNAP by this name.)
- 2) The Department presented Chapter 10, Appendix B (Exhibit D-3), of the West Virginia Income Maintenance Manual. This appendix consists of a table of the allowable SNAP income deductions over time. This table shows that the OUS, as of April 2012, is \$61.

- 3) The West Virginia Income Maintenance Manual, Chapter 10.4.B.7.b (Exhibit D-2), describes the SUA types as follows:

b. Standard Utility Allowance (SUA)

The Standard Utility Allowances are fixed deductions which are adjusted yearly to allow for fluctuations in utility costs. These deductions are the Heating/Cooling Standard (HCS), the Non-Heating/Cooling Standard (NHCS), and the One Utility Standard (OUS). The current SUA amounts are found in Appendix B.

In 10.4.B.7.b(1)(b), policy explains the requirement for separate billing to be eligible for the HCS as follows, in pertinent part:

(b) Separate Billing

The expense for heating or cooling costs must be billed separate from the rent or mortgage payment of the residence, even if the AG combines those payments.

In 10.4.B.7.b(2), policy explains the requirement for separate billing for two or more separately billed utility costs to be eligible for the NHCS as follows, in pertinent part:

(2) Non-Heating/Cooling Standard (NHCS)

AGs that do not qualify for the HCS, but incur two or more utility expenses or at least one utility expense when sharing a residence that has two or more utilities, are eligible for the NHCS. To be eligible for the NHCS, the AG must also meet the following criteria.

(a) Separate Billing

The utility costs must be separate and apart from the rent or mortgage payment for the residence.

In 10.4.B.7.b(3), eligibility for the OUS is explained as follows, in pertinent part:

(3) One Utility Standard (OUS)

AGs that do not qualify for the HCS or the NHCS, but incur one utility expense, are eligible for the OUS. To be eligible for the OUS, the AG must also meet the following criteria:

(a) Separate Billing

The utility cost must be separate and apart from the rent or mortgage payment of the residence.

- 4) The Department presented the Claimant's lease agreement (Exhibit D-1), which provides a list of utilities included in the Claimant's rent and those for which he is directly responsible. All utilities except for telephone are listed as included in the Claimant's rent.
- 5) The Claimant did not dispute the number or type of utilities billed separately from his rent. He feels that existing policy is unfair and should be changed.

VIII. CONCLUSION OF LAW:

SNAP policy allows certain deductions and disregards from gross income in determination of a household's countable income and resulting monthly SNAP benefit level. A type of fixed utility deduction allowed is the SUA, and a subtype of the SUA is the OUS, specifically for households with only one utility that is billed separately from their rent. There is no dispute of the fact that the Claimant has only one utility billed separately from his rent; therefore, the use of the OUS in determination of the Claimant's countable income and resulting SNAP benefit level is correct. The Board of Review does not have the authority to change existing policy or to grant policy exceptions.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department to determine the SNAP benefits of the Claimant based on allowable income disregards and deductions.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ Day of June, 2012.

Todd Thornton
State Hearing Officer