



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

October 17, 2012

-----, Esquire

RE: -----
Action No: 12-BOR-1453-1456

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on the hearing held October 16, 2012. Your hearing request was based on the Department of Health and Human Resources' termination of WV WORKS benefits and a reduction of Supplemental Nutrition Assistance Program (SNAP) benefits for -----.

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 WV WORKS and SNAP is based on current policy and regulations. These regulations state that Social Security Survivors benefits are considered countable unearned income for SNAP and WV WORKS (WV Income Maintenance Manual § 10.3 UUU). All non-excluded income for the entire assistance group is used in eligibility determination for SNAP and WV WORKS (WV Income Maintenance Manual § 9.1 B and 9.21 B).

The information submitted at the hearing revealed that the Department correctly calculated -----'s SNAP allotment and terminated her WV WORKS benefits based on the onset of Social Security Survivors benefits for her daughter.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to reduce -----'s SNAP benefits and terminate her WV WORKS benefits.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Eric Dotson, Family Support Supervisor

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1453-1456

**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 held on October 16, 2012, by videoconference. This hearing was held in accordance with the provisions found in the West Virginia Department of Health and Human Resources Common Chapters Manual, Chapter 700. This fair hearing was convened on a timely appeal, filed June 11, 2012.

II. PROGRAM PURPOSES:

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.

The purpose of WV WORKS is to help economically dependent, at-risk families become self-supporting. It is a work-oriented, performance-based, time-limited program that emphasizes employment and personal responsibility. The goals of WV WORKS are to achieve more efficient and effective use of public assistance funds, reduce dependency on public programs by promoting self-sufficiency, and structure assistance to emphasize employment and personal responsibility.

III. PARTICIPANTS:

-----, Claimant

-----, Esquire, Counsel for Claimant

Eric Dotson, Family Support Supervisor

Presiding at the hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department's termination of Claimant's WV WORKS benefits and reduction of SNAP benefits was correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 9.1 A, 9.1 B, 9.21 A, 9.21 B, 10.3 UUU, 10.4 C, 10.4 D, 10.24 B and 10.24 C

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case Summary
- D-2 WV Income Maintenance Manual § 2.2, 2.17 B, 9.1 A-C, 9.21 A-C, 10.3 UUU, 10.4, 10.24, and Chapter 10 Appendix A
- D-3 Notification Letter dated April 10, 2012
- D-4 Renewal Application for WV Healthcare Coverage for Kids & Expectant Moms dated April 6, 2012
- D-5 Social Security Administration Retirement, Survivors and Disability Insurance Notice of Award dated February 21, 2012

Claimants' Exhibits:

- C-1 Social Security Administration Guide to Survivors Benefits and Representative Payees

VII. FINDINGS OF FACT:

- 1) The Department processed a children's Medicaid renewal form (D-4) on April 9, 2012. Claimant reported the onset of Social Security Survivors benefits for her daughter, ----- of \$519 monthly. This income was verified via benefit award letter (D-5) from the Social Security Administration (SSA) dated February 21, 2012. The Survivors benefits for ----- were effective March 2012.
- 2) The Department issued Claimant a notification letter (D-3) on April 10, 2012, which reads in pertinent part:

Your WV WORKS/WVEAP benefits will stop. You will not receive this benefit after April 2012. Income is too much for you to receive benefits. Your SNAP will decrease from \$320.00 to \$255.00. Your income has increased.

- 3) Eric Dotson, Family Support Supervisor, testified that according to policy, -----'s Social Security Survivors benefits must count in the eligibility determination of WV WORKS and SNAP benefits as she is a member of the Assistance Group (AG).
- 4) -----, counsel for Claimant, argued -----'s Survivors benefits should be considered excluded income for WV WORKS. Claimant must use that income for the sole benefit of ----- as her payee. ----- contends Claimant is not entitled to -----'s Survivors benefits under SSA's payee guidelines (C-1), and must demonstrate yearly how the income was used.

- 5) WV Income Maintenance Manual § 9.1 A(1) and 9.1 A (2) states:

The SNAP AG must include all eligible individuals who both live together and purchase and prepare their meals together.

The following individuals who live together must be in the same AG, even if they do not purchase and prepare meals together.

- Children Under Age 22, Living With a Parent

Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as that parent.

- 6) WV Income Maintenance Manual § 9.1 B states:

The income group [for SNAP] includes all AG members and all individuals who live with the AG and would otherwise be included in the AG if not ineligible, disqualified or excluded by law. This includes ineligible aliens, those excluded by law, disqualified due to an IPV or trafficking SNAP for a controlled substance and those who fail to meet the enumeration requirement.

- 7) WV Income Maintenance Manual § 10.3 UUU states:

Retirement, Survivors, Disability Insurance (RSDI)

SNAP and WV WORKS: Unearned. Count the amount of the client's entitlement. This includes any amount deducted for Medicare, if applicable.

- 8) WV Income Maintenance Manual § 10.4 C(2-3) states:

The following steps are used to determine countable income for cases meeting the eligibility tests in item 1 above.

Step 1: Combine monthly gross non-excluded earnings and monthly gross profit from self-employment.

Step 2: Deduct 20% of Step 1.

Step 3: Add the gross non-excluded unearned income, including the WV WORKS benefit and any amount reduced or being repaid to the WV WORKS due to failure to comply with a program requirement.

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/SUA amount.

Step 10: No one elderly or disabled and shelter/SUA is equal to or less than Step 9 – No further computation is necessary, Step 8 is the countable income

Shelter/SUA greater than Step 9: The amount in excess of 50%, not to exceed the shelter/ utility cap, in Appendix B is deducted to arrive at countable income.

At least one person is elderly and disabled and the shelter/SUA is equal to or less than Step 9 – No further computation is necessary, Step 8 is the countable income

Shelter/SUA 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.

To determine the coupon allotment, find the countable income and the number in the AG in Appendix C. One-and two-person AG's who meet the gross and net income test or who are categorically eligible, as defined

in Section 1.4,R automatically receive a minimum \$16 monthly benefit, unless it is a prorated benefit. See Appendix D. No benefits are issued to any AG eligible for an initial, prorated amount of \$1 - \$9. See Chapter 1 for proration requirements.

Although Appendix C of this Chapter (10), Basis of Issuance, provides benefit amounts based upon countable income, the Worker may determine the benefit amount by using the following method. This method is also used by RAPIDS to determine the benefit.

Multiply net income by 30%.... (Round up)

Subtract 30% of net income from the maximum monthly benefit for the AG size.....

- 9) WV Income Maintenance Manual § 10.4 D(17) states:

Unavailable Income

Income intended for the client, but received by another person with whom he does not live, when the individual receiving this income refuses to make it available, is excluded [for SNAP].

- 10) WV Income Maintenance Manual § 9.21 A(1) states:

Who Must Be Included [for WV WORKS]

NOTE: Whether or not an individual has earned or unearned income sufficient to meet his own needs or the needs of his dependents, is not a factor to consider when determining if the individual is required to be included in the AG.

NOTE: Although the individuals listed below are required to be included in the WV WORKS AG, if otherwise eligible, an SSI recipient, age 18 or over, cannot be included in the AG.

The following individuals are required to be included:

- All minor, dependent, blood-related and adoptive siblings who live in the same household and are otherwise eligible. For this purpose only, otherwise eligible means living with a specified relative.

- 11) WV Income Maintenance Manual § 9.21 B states:

The non-excluded income of all AG members is counted [for WV WORKS]. The non-excluded income of the ineligible and disqualified

non-recipient Work-Eligible Individuals who would normally be required to be included in the AG must be counted when determining eligibility, but disqualified and excluded SSI individuals are not counted in the Needs Group.

- 12) WV Income Maintenance Manual § 9.24 C states:

Countable income is compared to the income limits for the number in the AG to determine eligibility and the amount of the benefit.

- 13) WV Income Maintenance Manual § 10.24 B(2) states:

The only unearned income disregard or deduction [for WV WORKS] is redirected child support of up to \$100 per month for families with 1 child and up to \$200 for families with more than 1 child eligible for TANF. This deduction does not apply until after the 100% Standard of Need test has been met.

- 14) WV Income Maintenance Manual § 10.24 C(5) states:

Determining Countable Income [for WV WORKS]

Once the 100% of Need test is met, the following steps are taken.

Step 1: Add together the non-excluded gross earned income of the AG and any disqualified person(s).

Step 2: Subtract the Earned Income Disregard, i.e., 40% of earnings.

Step 3: Subtract the Dependent Care Deduction for each person who pays dependent care.

This resulting amount is the Total Countable Earned Income.

Step 4: Total all child support received by the AG.

Step 5: Subtract the child support pass-through amount from Step 4, up to \$100 or \$200 for children eligible for TANF.

Step 6: Add all other non-excluded unearned income of the AG and any disqualified person(s). The resulting amount is the countable unearned income.

Step 7: Add together the total countable earned income and unearned income. The resulting amount is the total monthly countable income.

Step 8: Determine the maximum WV WORKS benefit amount for the AG size, using Appendix A.

Step 9: If the amount arrived at in Step 7 equals or exceeds the amount in Step 8, the AG is ineligible. If the amount arrived at in Step 7 is less than the amount in Step 8, the AG is income eligible and the amount from Step 7 is subtracted from the amount in Step 8.

Step 10: If a sanction is applicable, multiply the Step 9 amount by .3333 (1/3) or .6666 (2/3) and drop any cents, or use Appendix F. Subtract this amount from the Step 9 amount.

Step 11: Subtract any repayment amount from the amount remaining. The result is the WV WORKS benefit amount.

- 15) WV Income Maintenance Manual § 10.24 D(16) states:

Unavailable Income

Income intended for the client, but received by another person with whom he does not live, when the individual receiving this income refuses to make it available, is excluded [for WV WORKS].

- 16) WV Income Maintenance Manual Chapter 10 Appendix A states:

Maximum SNAP allotment for 2 person AG: \$367

Maximum WV WORKS allotment for 2 person AG: \$301

- 17) WV Income Maintenance Manual Chapter 10 Appendix B states:

Standard deduction 1-3 person AG: \$147

VIII. CONCLUSIONS OF LAW:

- 1) Policy stipulates that the income for a SNAP assistance group includes the total non-excluded gross income for each member of the assistance group. A Social Security Survivors benefit is countable unearned income for SNAP.
- 2) Claimant's SNAP allotment is calculated as follows: a \$519 Social Security Survivors benefit minus standard deduction of \$147 is \$372. Claimant has no other income deductions. Thirty percent of the net SNAP income of \$372 is 111.60. This amount is deducted from the maximum coupon allotment for a 2 person AG: \$367 minus 111.60 = \$255 SNAP allotment. The Department was correct in its calculation of Claimant's SNAP allotment.

- 3) Policy stipulates that the non-excluded income of all members of the AG is used in the determination of eligibility for WV WORKS benefits. A Social Security Survivors benefit is countable unearned income for WV WORKS.
- 4) Claimant's eligibility for WV WORKS is calculated as follows: the total income for the AG of \$519 is compared to the maximum WV WORKS benefit for a 2 person AG of \$301. Because the AG's countable income exceeds the maximum WV WORKS benefit, Claimant is ineligible for WV WORKS. The Department was correct in its termination of Claimant's WV WORKS benefits.
- 5) Although Claimant's attorney argued that as a payee for her daughter's Social Security Survivors benefits, Claimant is required to use that money for the sole benefit of her daughter, the income belongs to a member of the SNAP and WV WORKS AG, and therefore must be counted in eligibility determination. Policy only allows income exclusions if a protective payee is a member of another household and refuses to make that income available.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to reduce Claimant's SNAP allotment and terminate her WV WORKS benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 17th day of October 2012

Kristi Logan
State Hearing Officer