



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

January 6, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held December 28, 2011. Your hearing request was based on the Department of Health and Human Resources' reduction of 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 for SNAP is based on current policy and regulations. Some of these regulations state that a SNAP medical deduction is only allowable for elderly or disabled assistance group members (West Virginia Income Maintenance Manual, Chapter 10.4.B.6), and that disability may be established – for purposes of this deduction – through receipt of SSI-Related Medicaid (West Virginia Income Maintenance Manual, Chapter 12.15.B).

The information submitted at your hearing revealed that although you have applied for SSI-Related Medicaid, you have not been approved, and therefore, you do not qualify for a SNAP medical deduction; no other valid SNAP income deductions or disregards were proposed, and no other dispute of the Department's income calculation, or resulting SNAP benefit calculation, was proposed.

It is the decision of the State Hearing Officer to **uphold** the Department action to reduce your SNAP benefits.

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.: 11-BOR-2360

**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 January 6, 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 December 28, 2011, on a timely appeal, filed November 7, 2011.

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 was correct to reduce the Claimant's SNAP benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapter 10.4; Chapter 12.15

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual, Chapter 10, Appendix A
- D-2 Unemployment income verification
- D-3 Food Stamp Allotment Determination screen print

VII. FINDINGS OF FACT:

- 1) Cory Collins, representative for the Department, testified that the Claimant's SNAP benefits were reduced as a result of the onset of unearned income, specifically unemployment income. This income was verified as \$243.00 weekly (Exhibit D-2). Mr. Collins presented the calculation of the Claimant's SNAP benefits (Exhibit D-3), including all allowable deductions for the program. Mr. Collins testified that this calculation printout (Exhibit D-3) from December 2011 is the same as the initial month – October 2011 – of reduced SNAP benefits to the Claimant. The Claimant had no dispute of the income or deductions counted, only of the policy that excluded the deductions he proposed.
- 2) The West Virginia Income Maintenance Manual, Chapter 10.4.B, provides a list of the only allowable disregards and deductions for SNAP, in the following seven categories: earned income disregard, standard deduction, dependent care deduction, child support deduction, homeless shelter standard deduction, medical expenses, and shelter/utility deduction. Proposed deductions from the Claimant for loan and credit card payments do not meet any of these categories.
- 3) The Claimant is additionally an applicant for SSI-Related Medicaid, but has not been approved. The Claimant proposed SNAP deductions for medical expenses prior to approval for this type of Medicaid.

- 4) The West Virginia Income Maintenance Manual, Chapter 10.4.B.6, discusses the qualification for a SNAP medical deduction as follows, in pertinent part (emphasis added):

6. Medical Expenses

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.**

- 5) The West Virginia Income Maintenance Manual, Chapter 12.15.A, reiterates the need for a disability determination for a SNAP medical deduction as follows, in pertinent part:

12.15 ESTABLISHING DISABILITY FOR SNAP

A. INTRODUCTION

Disabled means the individual is unfit to engage in full-time employment due to a physical and/or mental disability. There are several different SNAP policies which require a determination of physical and/or mental disability. The way in which the disability is established varies, depending upon the policy for which the determination is being made. Some policies specify that only certain conditions establish disability. Others require a disability determination to be made by the Worker; this may be done with or without a physician's statement, depending upon the policy for which the determination is being made. The policies which require a disability determination are listed below, followed by a citation showing the location of the instructions for making such determinations.

- Medical deduction provision in Section 10.4,B,6. Use item B below only.

- 6) At Chapter 12.15.B, the West Virginia Income Maintenance Manual states, as follows, in pertinent part:

B. ESTABLISHING DISABILITY WITHOUT A PHYSICIAN'S STATEMENT

Disability is established without a physician's statement as follows:

- The individual receives benefits from a governmental or private source, and these benefits are based on his own illness, injury or disability.

This includes, but is not limited to: RSDI, SSI, Workers' Compensation, Black Lung, Veteran's Administration, private insurance or sickness benefits, Medicaid based on incapacity, blindness or disability, including, but not limited to: SSI-related, M-WIN, HCB Waiver, MR/DD Waiver and CDCS, etc.

VIII. CONCLUSIONS OF LAW:

- 1) SNAP policy allows certain income deductions and disregards in the determination of the countable income that is the basis of the benefit level. The Claimant did not dispute the gross income source or amount. The Claimant proposed deductions not identified in SNAP policy. The Department was correct to not allow income deductions or disregards not established by policy.
- 2) The Claimant is in the process of applying for SSI-Related Medicaid, but had not been approved at the time of the reduction in his SNAP benefits. The Claimant proposed that his medical expenses be allowed as a medical deduction in the determination of his SNAP benefits. Policy clearly ties the qualification for a SNAP medical deduction to age or disability. The disability requirement hinges on receipt of government or private benefits based on illness, injury or disability – including SSI-Related Medicaid. The Claimant did not indicate that he met the age requirement for a SNAP medical deduction, nor did he indicate that he receives any benefits based on his disability. The Claimant has applied for SSI-Related Medicaid, but until he is approved he is not established as disabled for SNAP medical deduction purposes, and the Department is correct to calculate his SNAP benefits without consideration of any medical expenses.
- 3) With no valid dispute of countable SNAP income, deductions, or disregards from the Claimant, the Department's calculation of countable income – and the resulting determination of the Claimant's SNAP benefit level – is correct.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department to reduce SNAP benefits to the Claimant due to a change in countable income.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of January, 2012.

Todd Thornton
State Hearing Officer