



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

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

February 24, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held February 15, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your Supplemental Nutrition Assistance Program (SNAP) allotment.

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. These regulations provide that medical expenses in excess of \$35 monthly for an elderly or disabled individual are allowable deductions for SNAP. These expenses include prescription medications, over-the-counter medications if prescribed by a health care professional and health insurance premiums (WV Income Maintenance Manual § 10.4 B).

The information submitted at your hearing revealed that after all allowable medical expenses, your SNAP allotment is calculated as \$127.

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

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Emily Shumate, Economic Service Worker

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

IN RE: -----,

Claimant

v.

ACTION NO.: 12-BOR-319

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondents

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on February 15, 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 a timely appeal, filed January 4, 2012.

It should be noted here that the Claimant's benefits under the Supplemental Nutrition Assistance Program have continued pending a decision.

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
Sylvia Proffitt, Economic Service Worker

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 proposal to reduce Claimant's SNAP allotment is correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 10.4 B

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department's Summary
- D-2 Hearing Request received January 4, 2012
- D-3 Hearing/Grievance Request Notification
- D-4 Scheduling Order
- D-5 Notification Letter dated December 27, 2011
- D-6 Case Comments (CMCC) from RAPIDS Computer System
- D-7 SNAP 12 Month Contact Form dated December 23, 2011
- D-8 Medical Expenses
- D-9 WV Income Maintenance Manual § 10.4 B

Claimants' Exhibits:

- C-1 Medical Expenses

VII. FINDINGS OF FACT:

- 1) Claimant submitted a 12 month SNAP review form to the Department on December 23, 2011 (D-7). A notification letter dated December 27, 2011 was issued by the Department which reads in pertinent part (D-5):

Your SNAP will decrease from \$121.00 to \$73.00 effective 02/01/12.
Your medical expenses are less.

- 2) Sylvia Proffitt, Economic Service Worker, stated Claimant's SNAP benefits were reduced because her medical expenses were less than the previous year's. Ms. Proffitt stated the caseworker that processed Claimant's review form found that some of Claimant's medical expenses were not recurring expenses and were not allowed as a deduction (D-6).

- 3) Claimant testified her caseworker did not allow a deduction for prescribed over-the-counter medications or co-pays for doctor visits. Claimant stated that she takes vitamin D and fish oil, which she will stock up on when it is on sale. Claimant has regular colonoscopies and has to pay for Miralax, Gatorade and suppositories in preparation for the procedure. Claimant testified she uses different pharmacies, so it may have appeared some of her prescription medications were not recurring (C-1).
- 4) WV Income Maintenance Manual § 10.4 B(6) states:

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.

NOTE: A licensed practitioner's statement is not required at each redetermination if circumstances have not changed.

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, 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.

b. Consideration of Medical Bills

The client must only be required to report medical expenses at application and redetermination. He may choose to report changes in expenses during the certification period, and such changes must be acted on.

Only medical costs that are not reimbursable through a third party (insurance, Medicaid, etc.) are deducted. When the reimbursable portion of the expense is not known when the client reports the expense, the deduction is delayed until the information is obtained.

Medical bills are expected to be paid within a specific period of time. Bills which are overdue when reported cannot be considered, regardless of the method used to claim medical expenses or how the expense may be deducted once it is reported. The date the expense is incurred is not the deciding factor, but rather, the date the expense is billed or otherwise due.

The AG may elect to have one-time-only costs deducted in a lump sum or prorated over the certification period. If, at application, a client anticipates and verifies that he will incur an expense during the certification period, it may be prorated over the entire certification period. If he reports an expense during the certification period, it may be prorated over the remainder of the certification period.

When the medical bill or expense is paid by a credit card, it must be treated as a one-time-only cost and may be deducted in a lump sum or

prorated over the certification period. The actual monthly payment to the credit card company is not an allowable medical expense.

An AG which is certified for 24 months may elect to have one-time-only costs deducted as follows. Costs reported during the first 12 months of the certification period may be deducted for one month, averaged over the remainder of the first 12 months or averaged over the remainder of the certification period. Costs reported after the 12th month may be deducted for one month or averaged over the remainder of the certification period. Medical expenses are treated in any of the following ways.

(1) Estimated Expenses

The client may claim a medical deduction by providing a reasonable estimate of medical expenses for the certification period. Such expenses may include current verified medical expenses, anticipated changes in ongoing expenses, an anticipated new source of ongoing expenses or an anticipated one-time-only expense. The client must verify that his estimate is reasonable.

Information used to determine that an estimate is reasonable may include, but is not limited to:

- Current verified medical expenses
- Statement from a physician, dentist or other health care professional to establish the need for and/or date of an anticipated procedure, course of treatment, etc. The Worker and/or Supervisor may establish need based upon knowledge of the client's current or prior circumstances or information in the client's record.
- Cost estimate from the provider of an anticipated procedure, course of treatment, etc.
- Information about third-party coverage, including Medicaid, for current and/or anticipated expenses

Once the client provides a reasonable estimate of expenses for the certification period, he must not be required to report further, even if the estimated expenses increase, decrease or do not occur. However, changes reported by the AG must be acted on.

Changes reported or information received from a source other than the AG, such as information received from a medical provider for a Medicaid client, must be acted on only when the information is verified

by the outside source and contact with the AG is not necessary for additional information or verification. Otherwise, such information is acted on at the next redetermination or when the client reports and verifies it.

(2) Actual Expenses

The client may claim a medical deduction by using actual expenses. Once he reports his actual expenses at application or redetermination, he must not be required to report further, even if his expenses increase or decrease during the certification period. However, reported changes must be acted on.

Monthly payments toward medical expenses are allowable as a deduction only when a monthly payment schedule is negotiated prior to the due date of the bill. If the client must renegotiate the payment schedule for any reason, only the amount which is not past due, and for which the client has not already received a deduction, is an allowable expense.

When a bill becomes overdue during the certification period, the deduction continues until the end of the certification period, unless the client reports the overdue bill.

Ongoing medical expenses that are regularly incurred on a weekly, bi-weekly or semi-monthly basis must be converted to a monthly amount using the following conversion figures:

Weekly - Multiply by 4.3

Bi-weekly - Multiply by 2.15

Semi-Monthly - Multiply by 2

(3) Estimated and Actual Expenses

Clients may choose to use a combination of estimated and actual expenses

VIII. CONCLUSIONS OF LAW:

- 1) Policy stipulates allowable medical expenses for SNAP included prescription medications, over-the-counter medications, if prescribed, and premiums for health insurance policies.
- 2) Claimant submitted verification of her Medicare Part B premium, Medicare Part D premium, monthly prescription costs and over-the-counter vitamins and supplements

that were prescribed by her physician at review in December 2011. These are allowable expenses that should have been used in eligibility determination.

- 3) Claimant's SNAP allotment is calculated as follows: \$1265.50 gross Social Security income minus \$147 standard deduction minus \$200.06 medical expenses is \$918.44 ($1265.50 - 147 = 1118.50 - 200.06 = 918.44$). Fifty percent of Claimant's income after these deductions is \$459.22 ($918.44/2 = 459.22$).

Claimant's shelter and utility costs are \$956.41 (556.41 mortgage + heating/cooling standard 400). Claimant is entitled to the difference of fifty percent of her remaining income and her total shelter utility costs ($956.41 - 459.22 = 497.19$). Claimant's net SNAP income is determined to be \$421.25 ($918.44 - 497.19$).

Based on the above calculations, Claimant's SNAP allotment is \$127 ($421.25 \times 30\%$).

- 4) The Department failed to use all of Claimant's allowable medical expenses at her December 2011 SNAP review resulting in a reduction in SNAP benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to reduce Claimant's SNAP benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 24th day of February 2012

Kristi Logan
State Hearing Officer