



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General

Board of Review
P.O. Box 1736
Romney, WV 26757

Earl Ray Tomblin
Governor

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

April 24, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held April 19, 2012. Your hearing request was based on the Department of Health and Human Resources' determination of 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 countable income is determined by computing household income and subtracting all allowable deductions. Once countable income is determined, the coupon allotment is determined by finding the countable income and the number in the Assistance Group in West Virginia Income Maintenance Manual Chapter 10, Appendix C. (West Virginia Income Maintenance Manual Chapter 10.4.C)

Information submitted at your hearing reveals that the Department correctly calculated your SNAP allotment based on your reported income and allowable deductions.

It is the decision of the State Hearing Officer to **uphold** the Department's calculation of your SNAP allotment.

Sincerely,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

cc: Erika Young-Chairman, Board of Review
Penny Tinsman-Economic Service Supervisor

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

IN RE: ---- ----,

Claimant,

v.

ACTION NO.: 12-BOR-827

**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 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 March 2, 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 Husband

Penny Tinsman, Economic Service Supervisor-WVDHHR

Presiding at the hearing was Eric L. Phillips, 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 was correct in its decision to reduce the Claimant's Supplemental Nutrition Assistance Program benefits.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 10

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Notice of Decision dated January 7, 2012
- D-3 West Virginia Income Maintenance Manual Chapter 10.4c
- D-4a Computer printout of Food Stamp Allotment Determination prior to Standard Utility Allowance decrease
- D-4b Computer printout of Food Stamp Allotment Determination after Standard Utility Allowance decrease
- D-4c Computer printout of Food Stamp Allotment Determination after Standard Utility Allowance decrease and inclusion of self-employment income
- D-5 Computer printout of case comments
- D-6 West Virginia Income Maintenance Manual Chapter 10.4a

Claimants' Exhibits:

- C-1 Internal Revenue Service Profit or Loss From Business 2010 Schedule C for ---- ---- and ---- ----
- C-2 Claimant's calculation of total household income from January 1, 2011 through December 31, 2011
- C-3 Numerous Notices of Decisions dated August 2011 through March 2012

VII. FINDINGS OF FACT:

- 1) On March 2, 2012, the Claimant submitted a verbal hearing request appealing the January 7, 2012 decision of the Department (Exhibit D-2) which reduced her Supplemental Nutrition Assistance Program, hereinafter SNAP, benefits from \$142.00 to \$120.00 a month effective February 1, 2012 as the result of a Social Security Administration Cost of Living Adjustment, hereinafter COLA, increase.
- 2) Penny Tinsman, Economic Service Supervisor testified that the Claimant's SNAP benefits were reduced as a result of a COLA to the Claimant's Social Security income (Exhibit D-4a), a change in Department policy which reduced the maximum allowable deduction in the Standard Utility Allowance, hereinafter SUA (Exhibit D-4b), and an increase in reported self-employment income for the Claimant's husband.

- 3) Ms. Tinsman testified that the Claimant's initial reduction of SNAP benefits was a result of a \$49.00 COLA increase to the household's Social Security income. The COLA increased the household's total month gross income from \$1356.00 to \$1405.00. After all allowable deductions, including \$665.72 shelter cost and \$400.00 maximum SUA deductions (Exhibit D-4a), the Claimant's net income was determined to be \$246.30 with a net SNAP allotment of \$120.00.
- 4) Ms. Tinsman testified that a change in policy reduced the maximum allowable amount of the SUA from \$400.00 to \$355.00 (Exhibit D-4b) effective April 2012. After all allowable deductions, the Claimant's net income was calculated to be \$259.80 with a net SNAP allotment of \$107.00. Ms. Tinsman noted that there was no change to the total monthly gross income or the shelter cost deduction for the household.
- 5) The Claimant previously reported self-employment earnings; however, these earnings did not yield a net profit and were not considered in the SNAP allotment determination. The Claimant submitted 2010 tax information (Exhibit C-1) to the Department because she believed the household's self-employment expenses were incorrectly assessed (Exhibit D-5). Ms. Tinsman stated that the Claimant's self-employment earnings as a real estate broker did not yield a net profit; however, her husband's self-employment earnings from a stained glass business produced a tentative profit of \$754.00. Ms. Tinsman purported that the profit amount was derived from the total gross income of \$1,176.00 minus the total expenses of \$422.00. The total profit was averaged by 12 months and \$62.83 of additional self-employment income was attributed to the household's total monthly gross income for the May 2012 SNAP allotment determination. After all allowable deductions, the Claimant's net income was calculated to be \$282.30 with a net SNAP allotment of \$84.00.
- 6) The Claimant testified that she believed that her income did not exceed 130% of the Federal Poverty Level of \$1594.00 per month and her SNAP benefits should not be reduced or terminated. The Claimant indicated that she has completed her 2011 tax information and will submit the necessary documentation to the Department for a review of her SNAP allotment determination.
- 7) West Virginia Income Maintenance Manual Chapter 2.2 documents in pertinent part:

All SNAP AG's [sic] must report changes related to eligibility and benefit amount at application and redetermination. SNAP AG's [sic] are subject to Limited Reporting requirements and the reporting requirements in this Section apply to recipient AG's only.

The reporting requirements for SNAP recipients are only for SNAP benefits and do not affect the reporting requirements of any other program of assistance that the AG also receives.

Regardless of the SNAP reporting requirement, all changes reported directly by an AG member, the AG's [sic] authorized representative and/or authorized EBT

cardholder, or from a source that is listed as verified upon receipt below must be acted on, even if the AG is not required to report the information.

2. Changes Acted On For SNAP AG's [sic]

a. Information Verified Upon Receipt

Action must be taken for all AG's [sic] when information is received from a source that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the primary source of the information. The only sources considered verified upon receipt are:

- BENDEX and SDX from SSA
- COLA Mass Change and reports in Appendix B
- SAVE from INS and 40 Qualifying Quarters information from SSA
- Unemployment Compensation from WV BEP data exchange
- SNAP E&T's information that a client did not comply with work requirements
- IFM's determination of an IPV
- Notification of application for benefits in another state

8) West Virginia Income Maintenance Manual Chapter 10.4 documents in pertinent part:

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.

AGs that are obligated to pay from their own resources a utility expense that is billed separately from their shelter costs are eligible for an SUA deduction. AGs which are not obligated to pay any utility cost are ineligible for the SUA, regardless of utility expenses paid by others in the residence. Eligibility for the SUA must be evaluated at certification, redetermination, and when the AG reports a change in utilities that may affect its eligibility for a deduction.

Items which are considered utilities include, but are not limited to:

- Water, including well installation and maintenance
- LP or natural gas
- Wood, wood pellets, coal and heating oil
- Electricity

- Sewage, including septic tank system installation and maintenance
- Garbage collection
- The basic rate for one telephone either land-line or cellular service, but not both. Basic rate charges include, but are not limited to, taxes, wire maintenance fees, subscriber line charges, relay center surcharges and 911 fees. It does not include extra services such as touchtone services, call-waiting, caller ID, etc.

NOTE: Cable/digital/satellite television service, utility deposits, and pre-paid cell phones are not treated as utility expenses.

9) West Virginia Income Maintenance Manual Chapter 10.2 documents in pertinent part:

Income is defined as any and all monies received from any source.

The determination of countable income is necessary, because it is, generally, the countable income which is tested against maximum income limits.

The first step in determining countable income is to determine all the incoming monies to the AG and to those whose income is counted for or deemed to the AG.

Once all incoming monies have been identified, they are compared to the income exclusions listed in this Chapter, and, if applicable, the income from any excluded source is subtracted from the incoming monies.

After all income exclusions have been applied, some of the remaining incoming monies may qualify for certain disregards and deductions as outlined in the sections for each specific program.

VIII. CONCLUSIONS OF LAW:

- 1) Policy requires that all countable income must be identified and compared to all income exclusions, disregards, and deductions in the determination of the SNAP allotment. Additionally, households that are obligated to pay from their own resources a utility expense that is billed separately from their shelter costs are eligible for an SUA deduction
- 2) Policy requires that all changes related to eligibility and benefit amount that are reported directly by a household member or from a source that is considered verified upon receipt must be acted upon, even if the household is not required to report the information. Cost of Living Adjustment from the Social Security Administration is considered a source that is verified upon receipt.

- 3) Upon review of evidence and testimony, including self-employment tax information, the Department correctly calculated the household's total gross monthly income and adjusted this income according to the correct income disregards and deduction for which the household qualified. Therefore, the Department correctly calculated the household's SNAP allotment based on the 2012 COLA increase, the reduction to the SUA, and an increase to self-employment income earnings.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ day of April, 2012.

Eric L. Phillips
State Hearing Officer