



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

April 30, 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' proposal to reduce your Supplemental Nutrition Assistance Program (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. These regulations provide that an Assistance Group's SNAP allotment is determined by multiplying the household's countable net income, after allowable deductions, by 30% and subtracting the remaining amount from the maximum SNAP allotment for that Assistance Group (WV Income Maintenance Manual § 10.4 C).

The information submitted at your hearing revealed that based on all allowable deductions found in policy, the Department was correct to reduce your SNAP allotment.

It is the decision of the State Hearing Officer to **Uphold** the proposal of the Department to reduce your SNAP allotment. Your SNAP allotment has been calculated to \$61.

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-899

**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 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 14, 2012.

It should be noted here that the Claimant's benefits under SNAP 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
Emily Shumate, 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 benefits is correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 10.4 B and 10.4 C

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Department Summary
- D-2 Hearing/Grievance Request Notification
- D-3 Scheduling Order
- D-4 Notification Letter dated March 8, 2012
- D-5 Case Comments (CMCC) from RAPIDS Computer System
- D-6 SNAP Allotment Determination Screen (EFAD) from RAPIDS Computer System
- D-7 Hearing Decision dated February 24, 2012
- D-8 WV Income Maintenance Manual § 10.4
- D-9 WV Income Maintenance Manual Chapter 10 Appendix B

Claimants' Exhibits:

- C-1 Bills for shelter and utility costs
- C-2 Medical Expenses

VII. FINDINGS OF FACT:

- 1) In February 2012, Social Security's cost of living increases were updated in the RAPIDS Computer system. Additionally, effective April 2012, the heating/cooling standard utility allowance decreased from a \$400 deduction to \$350. The Department issued a notification letter on March 8, 2012 which reads in pertinent part (D-4):

Your SNAP will decrease from \$102.00 to \$39.00 effective 4/01/12. Your medical expenses are less. Your shelter and/or utility costs are less.

- 2) Claimant testified she expected a decrease in SNAP benefits when her Social Security income increased, and understood the change in policy regarding the standard utility allowance, but Claimant was unprepared for the drastic decrease in her SNAP

allotment. Claimant wanted to make sure she was being given credit for all of her medical expenses.

Claimant's shelter costs include a mortgage with BB&T of \$365.41 and a second mortgage with United Bank of \$142.07. Claimant pays \$550.01 yearly in homeowners' insurance (\$45.83 monthly) and \$13.20 yearly in property taxes (\$1.10 monthly) (C-1).

Claimant pays her Medicare premium of \$99.90 and for a Medicare supplemental policy of \$8.30 monthly. Claimant stated she sees a gastroenterologist every three (3) months, paying a \$20 co-pay for each office visit and also has a colonoscopy every three months. Claimant must pay a \$25 co-pay to [REDACTED] General Hospital for each colonoscopy and \$18.35 in over-the-counter medications to prep for the procedure.

Claimant sees an eye doctor every four (4) months and is obligated to pay \$15.29 co-pay for each visit. Claimant has a visual field test and a refraction test at least yearly, and is responsible to pay \$78.84 and \$55 for each test respectively.

Claimant visits a cardiologist every six (6) months, the co-pay for each visit is \$16. Claimant visits a surgeon every three (3) months with a \$15 co-pay for each office visit. She sees her gynecologist yearly and owes \$14.80 for the tests. Claimant has her teeth cleaned twice a year and pays \$39 for each cleaning.

Claimant's monthly prescription costs are \$114.92 and prescribed over-the-counter vitamins are \$11.94.

3) 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

4) WV Income Maintenance Manual § 10.4 C(2) 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.

VIII. CONCLUSIONS OF LAW:

- 1) Policy allows medical deductions for expenses actually incurred and for expenses that can be anticipated. Claimant provided medical bills to document what her medical expenses will be for the certification period.
- 2) Claimant's actual prescription and prescribed over-the-counter medications are \$126.86 monthly. Claimant's anticipated medical expenses are \$617.91 yearly, or \$51.49 averaged monthly. Claimant is also eligible for deductions for her Medicare premium of \$99.90 and supplemental policy of \$8.30.
- 3) Claimant's SNAP allotment is determined as follows: \$1310.90 Social Security income minus \$147 Standard Deduction, minus \$251.55 medical deduction (less \$35) is \$912.35 ($1310.90 - 147 = 1163.90 - 251.55$). Fifty percent of the remaining income is \$456.18 ($912.35/2$).

Claimant's shelter and utility costs are \$904.41 (mortgage, homeowners insurance, property tax and heating/cooling SUA). Claimant is entitled to the difference of fifty percent of her remaining income and her total shelter costs ($904.41 - 456.18 = 448.23$). Claimant's countable net income is \$464.12 ($912.35 - 448.23$).

Thirty percent of Claimant's countable net income is \$139.24 ($464.12 \times 30\%$). The maximum SNAP allotment for an AG of one (1) is \$200. Claimant's SNAP allotment is calculated as \$61 ($200 - 139.24$).

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to reduce Claimant's SNAP benefits. Claimant's SNAP allotment is calculated as \$61.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 30th day of April 2012

Kristi Logan
State Hearing Officer