



**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**

June 5, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held May 31, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your monthly 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 certain items may be allowed as income deductions to arrive at an Assistance Group's countable income. The Standard Utility Allowance (SUA) is a fixed deduction which is adjusted yearly to allow for fluctuations in utility costs. Assistance Groups 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. (West Virginia Income Maintenance Manual Chapter 10.4)

The information which was submitted at your hearing revealed that the Department correctly calculated your SNAP benefits based on the reduction of the SUA.

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

Sincerely,

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

cc: Erika Young-Chairman, Board of Review
Cindy Myers, Family Support Specialist

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-935

**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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on May 31, 2012 on a timely appeal, filed March 14, 2012.

This hearing was originally scheduled to convene on May 14, 2012 and was continued based on the Claimant's request.

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

Cindy Myers, Family Support Specialist-Department representative

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 SNAP benefits based on a reduction in the Standard Utility Allowance.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Chapter 10.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual Chapter 10.4
- D-2 West Virginia Income Maintenance Manual Chapter 10 Appendix B
- D-3 SNAP Allotment Calculation Worksheets
- D-4 Hearing Summary

Claimants' Exhibits:

- C-1 Claimant's electric bills
- C-2 Receipt and prescription for Ensure

VII. FINDINGS OF FACT:

- 1) The Claimant is a current recipient of Supplemental Nutrition Assistance Program (SNAP) benefits and was eligible to receive a monthly SNAP allotment of \$30.00 (Exhibit D-3) for March 2012.
- 2) Effective April 1, 2012, the Standard Utility Deduction (SUA), an income deduction used to determine a household's countable income for SNAP, was reduced from \$400.00 to \$355.00 (Exhibit D-2).
- 3) As a result of the reduction of the SUA, the Claimant's SNAP benefits were reduced to a monthly allotment of \$17.00 (Exhibit D-3).
- 4) The Department provided SNAP Allotment Calculation Worksheets (Exhibit D-3) to show the Claimant's monthly SNAP calculation before and after the reduction in the SUA. The Claimant did not contest the income calculations (Exhibit D-3), but asserted that her \$17.00 monthly allotment of SNAP benefits does not provide her with an adequate amount of food and nutrition. The Claimant testified to her need for more SNAP assistance and provided a prescription for Ensure (Exhibit C-2) and a receipt verifying her payment for this nutritional

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

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.

VIII. CONCLUSIONS OF LAW:

- 1) Policy specifies that households which are responsible to pay for a utility expense that is billed separately from their shelter cost are eligible for the SUA. The Claimant is billed separately for her primary source of heat and is considered eligible for the SUA.
- 2) The SUA was reduced as a result of a change in policy. The reduction in the SUA reduced the Claimant's monthly SNAP allotment from \$30.00 to \$17.00.
- 3) The matter before the Board of Review is to determine if the Department correctly calculated the Claimant's SNAP allotment based on all income deductions. The Claimant offered no testimony to dispute the Department's calculation of her monthly SNAP allotment, but contended her monthly allotment was not sufficient to purchase adequate amounts of food. Therefore, the basis of the Claimant's appeal is solely one of policy with no factual dispute. Evidence reveals that the Department correctly calculated the Claimant's SNAP allotment based on all income disregards and deductions; therefore, the Department was correct in their decision to reduce the Claimant's SNAP allotment.

IX. DECISION:

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

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this ____ day of June 2012.

Eric L. Phillips
State Hearing Officer