



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
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Charleston, West Virginia 25313
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Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

March 4, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1262

Dear Mr. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Donna L. Toler
State Hearing Officer
Member, State Board of Review

Encl: Claimant's Recourse to Hearing Decision
Form IG-BR-29

cc: Tera Pendleton, Economic Service Worker

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

██████████,

Claimant,

v.

Action Number: 15-BOR-1262

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

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision 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 and held on March 4, 2015, on an appeal filed February 3, 2015.

The matter before the Hearing Officer arises from the February 4, 2015 decision by the Respondent to decrease Claimant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker. The Claimant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case comments computer screen print, dated February 3, 2014 through February 3, 2015
- D-2 Form PRC2, DFA-SNAP-12, date stamped as received on January 27, 2014
- D-3 SNAP Budget computer screen print, dated February 3, 2015
- D-4 SNAP Budget computer screen print, dated September 5, 2014
- D-5 Correspondence from the DHHR ██████████ office to the Claimant, dated February 4, 2015

Claimant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) On or about February 4, 2015, the Claimant, a recipient of benefits, received notification that his Supplemental Nutrition Assistance Program (SNAP) benefit was being reduced from \$152 to \$42 per month because of a decrease in shelter expenses and an increase in income. (Exhibit D-5)
- 2) The Department's representative explained that prior to a SNAP review conducted on February 3, 2015, the Department had incorrectly given the Claimant a shelter deduction of \$366.58, which included a rent payment of \$350 and property taxes of \$16.58 monthly. The Department's representative testified that the Claimant reported he was not obligated to pay rent, only property taxes which were prorated to a monthly amount of \$16.58. (Exhibits D-2, D-3 and D-4).
- 3) The Claimant agreed he had an increase in income of \$12, but that he had no changes in shelter expenses. The Claimant reported that he lives on family-owned property and that he has never been responsible for paying rent. He stated that the only shelter expense he is responsible to pay is the property tax on his home. The Claimant did not dispute the Department's gross income calculations. The Claimant testified that the Department has consistently lowered his SNAP allotment over the years, making it difficult to make ends meet. The Claimant stated he did not think it was fair the SNAP benefits decreased because the Department had previously entered an incorrect shelter deduction.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §10.4.B.7 lists shelter expenses which can be used for a deduction in SNAP benefit calculations. Rent and property taxes required to be paid on the house and lot are allowable deductions. The expense must be allowed only if the Assistance Group (AG) is obligated to pay with the resources of the AG. The deduction applies whether the expense is obligated from excluded or non-excluded resources. The AG is no longer allowed the deduction when the expense is no longer billed or is no longer due.

DISCUSSION

The Claimant received a notice from the Department which indicated that his shelter/utility costs had decreased and his income had increased. The Claimant argued that it he did not feel it was fair to decrease his SNAP benefits because there had been no change in his reported shelter

expenses, that he had never paid rent. The Claimant did not dispute the Department's gross income calculations.

CONCLUSION OF LAW

Policy in the WV Income Maintenance Manual §10.4.B.7 clearly establishes a deduction for shelter expenses can only be allowed if the Assistance Group is obligated to pay the expense. The deduction is no longer allowed when the expense is no longer billed or due. The Department was correct in not allowing a shelter deduction for rent, because the Claimant was not obligated to pay rent.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's decision to decrease Claimant's Supplemental Nutrition Assistance Program (SNAP) benefits effective March 1, 2015.

ENTERED this ____ day of March 2015.

Donna L. Toler
State Hearing Officer