



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

May 26, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1686

Dear Ms. [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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

cc: Sarah Pauley, WV DHHR, [REDACTED] Office

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

██████████,

Appellant,

v.

ACTION NO.: 15-BOR-1686

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on May 14, 2015, on an appeal filed March 27, 2015. This hearing originally was scheduled for April 21, 2015, but was rescheduled at the Hearing Officer's request.

The matter before the Hearing Officer arises from the March 30, 2015 decision by the Respondent to reduce the Appellant's Supplemental Nutritional Assistance Program (SNAP) benefits to \$109 per month, due to a change in the Appellant's rent, shelter and utility costs.

At the hearing, the Respondent appeared by Representative Sarah Pauley, Economic Service Worker. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV Income Maintenance Manual (IMM), Chapter 10, §10.4.B.7
- D-2 WV IMM, Chapter 10, §10.4.B.7.b
- D-3 Letter from Department to Appellant, dated March 30, 2015
- D-4 Written statement from Appellant's landlord, dated March 19, 2015

Appellant's Exhibits:

- C-1 Written statement from Appellant's landlord, dated May 14, 2015

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 March 30, 2015, the WV Department of Health and Human Resources (DHHR) issued to the Appellant a letter (Exhibit D-3) informing her that her monthly allotment of SNAP benefits would be \$109 per month beginning in May 2015. Her previous SNAP allotment amount was \$153. The Appellant requested a fair hearing to protest this reduction.
- 2) The Appellant had completed a SNAP review/redetermination in March 2015. As part of that review, she submitted verification of her shelter and utility costs. This verification was in the form of a letter from her landlord (Exhibit D-4) which stated, "This letter is written stating that [Appellant] pays me \$400 a month toward rent and utilities." The landlord included a section which itemized the rent amount as follows: rent \$270, power \$100, water \$30.
- 3) Before the Appellant completed the March 2015 review, the Department calculated her SNAP issuance based on her paying \$400 per month in rent and separately paying certain utilities. As such, she was eligible for the Standard Utility Allowance (SUA), a deduction subtracted from a SNAP recipient's income if he or she pays such costs.
- 4) When the Department learned that the Appellant did not pay these separate utility costs, it determined she was not eligible for the SUA. Effective in May 2014, the Department no longer applied the SUA to the Appellant's SNAP calculations, resulting in the reduction from \$153 to \$109 in her SNAP monthly allotment.

APPLICABLE POLICY

The WV Income Maintenance Manual (WV IMM) Chapter 10, §10.4.B.7 reads as follows in part:

The [Shelter/Utility Deduction] expense must be allowed only if the [assistance group] is obligated to pay with the resources of the [assistance group] . . . The [assistance group] is no longer allowed the deduction when the expense is no longer billed or is no longer due.

WV IMM Chapter 10, §10.4.B.7.b reads as follows in part:

The Standard Utility Allowances [SUAs] are fixed deductions which are adjusted yearly to allow for fluctuations in utility costs.

[SNAP Assistance Groups or] 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.

DISCUSSION

The Department did not provide documentary evidence to show the Appellant's SNAP monthly issuance calculations prior to the March 2015 review. However, both the Department's representative and the Appellant agreed that the Appellant received a Shelter/Utility Deduction of \$400 per month in rent plus certain utility amounts. The Appellant did not dispute the fact that she paid a flat amount of \$400 per month to her landlord which included her rent and utilities.

CONCLUSIONS OF LAW

Because the Department received information to the effect that the Appellant did not pay utility costs separate from her rent, the Department was correct in reducing the Appellant's monthly SNAP allotment, pursuant to WV IMM §10.4.B.7.

DECISION

It is the decision of the state Hearing Officer to **uphold** the Department's reduction in the monthly amount of the Appellant's SNAP benefits from \$153 per month to \$109 per month in May 2015 due to updated information regarding the Appellant's shelter and utility costs.

ENTERED this 26th Day of May, 2015.

Stephen M. Baisden
State Hearing Officer