



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
4190 Washington Street, West  
Charleston, West Virginia 25313  
(304) 746-2360, ext. 2227

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

May 12, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-1866

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,

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

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

cc: Christina Brown, Family Support Specialist

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

██████████,

**Claimant,**

**v.**

**Action Number: 15-BOR-1866**

**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 convened on May 12, 2015, on an appeal filed April 21, 2015.

The matter before the Hearing Officer arises from the March 2, 2015 decision by the Respondent to decrease the Claimant's Supplemental Nutrition Assistance Program (SNAP) benefits effective May 2015.

At the hearing, the Respondent appeared by Christina Brown, Family Support Specialist. The Claimant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 ██████████ Employment Verification dated March 10, 2015
- D-2 Case Comments computer screen print dated March 11, 2015 through April 21, 2015
- D-3 Verification Checklist dated March 23, 2015 (SNAP)
- D-4 Verification Checklist dated March 23, 2015 (WV WORKS)
- D-5 West Virginia Income Maintenance Manual Policy §4.2 (excerpt)
- D-6 ██████████ Child Care billing statement dated March 1, 2015 through April 4, 2015
- D-7 Case Comments computer screen print dated March 11, 2015 through April 21, 2015
- D-8 Correspondence from DHHR ██████████ to Claimant dated April 17, 2015
- D-9 West Virginia Income Maintenance Manual Policy §10.4

- D-10 Case Benefit Summary computer screen print dated August 14, 2014 through May 6, 2015
- D-11 Case Comments computer screen print dated August 15, 2014
- D-12 Case Comments computer screen print dated April 21, 2015 through April 27, 2015 and Reception Log dated April 1, 2015 through April 30, 2015
- D-13 SNAP Budget computer screen print dated January 9, 2015
- D-15 SNAP Budget computer screen print dated April 27, 2015

**Claimant's Exhibits:**

- C-1 [REDACTED] utility bill - due date May 26, 2015
- C-2 Rental receipt dated May 5, 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) The Claimant is a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits. (Exhibit D-10)
- 2) On March 11, 2015, the Claimant telephoned the Department and reported new employment. On March 17, 2015, a Department worker documented that it received verification of the Claimant's reported income, along with a report that the Claimant was now paying child care costs. (Exhibits D-2 and D-7)
- 3) On or about March 17, 2015, the Department received an employer statement which indicated the Claimant was employed and "will receive \$8.00 hourly and will work from 8:30 a.m. to 5:00 p.m., Monday through Friday. You must clock out for a[n] hour lunch each day". (Exhibit D-1)
- 4) The Department calculated the Claimant's monthly gross earned income as \$1376 per month. (Exhibit D-8)
- 5) On March 23, 2015, correspondence was mailed to the Claimant requesting that she provide verification of child care expenses to the Department. The Claimant provided a bill from her daycare provider as follows:

March 9 - March 13	\$27.00
March 16 - March 20	\$27.00
March 23 - March 27	\$27.00

The bill indicated that a payment of \$27.00 had been received and that the Claimant owed a balance of \$54.00. (Exhibits D-3 and D-6)

- 6) The Department approved the Claimant's SNAP benefits based on its calculation that the Claimant's monthly child care costs totaled \$54.00 per month. (Exhibit D-8)
- 7) On April 17, 2015, the Department mailed the Claimant notice that her SNAP benefits were being reduced from \$313.00 to \$16.00 monthly, due to an increase in earned income and an increase in her shelter/utility costs. The decrease in SNAP benefits was effective May 2015. (Exhibits D-8 and D-10)
- 8) On April 23, 2015, the Claimant provided the Department with copies of her utility bills to verify her utility expenses. (Exhibit D-12)
- 9) The Claimant disagreed with the Department's May 2014 benefit calculations. The Claimant reported that her child care costs are more than \$54.00 monthly, that she is responsible to pay rent in the amount of \$250 per month, that she is responsible to pay her home's heating and cooling expenses and that she is now working fewer hours than what was indicated on her employer statement. The Claimant contended she had always paid her utility expenses and had been paying her rent since around November 2014.
- 10) On August 15, 2014, the Claimant applied for SNAP benefits and reported that "her father owns a rental home - allows her to stay in it rent free and pays utilities for the mean time". (Exhibit D-11) The Department's representative stated that because the Claimant reported she was not responsible for rent or utilities at the time of application, she was not eligible for the deductions until she reported the change to the Department. The Claimant admitted that she had reported that she was responsible for the electric bill to pay heating and cooling costs in April 2015, but had not reported she was responsible for rent prior to the hearing.
- 11) The Department's representative and the Claimant agreed that changes were made to her case after the Claimant's request for a hearing. Those changes were based on the reported decrease in income and will be reflected in her June 2015 SNAP benefits, and are not a part of the Claimant's current appeal. (Exhibit D-14)
- 12) The Claimant's SNAP benefit issuance date is on the sixth day of each month. (Exhibit D-10)

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) §2.2.C.1.b provides instructions to workers in determining the effective date of reported changes. For all changes (except for the addition of an assistance group member or a decrease in income of \$50 or more) which result in an increase in benefits, if the next issuance date is more than ten days after the change is reported, the change is effective the month following the report month. The ten-day count includes the date of the report and takes the staggered benefit issuance date into consideration.

WV IMM §10.4 provides instruction on converting income to a monthly amount. The monthly amount is determined by multiplying an actual or average amount as follows:

- Weekly amount x 4.3
- Bi-weekly amount (every 2 weeks) x 2.15
- Semi-monthly (twice/month) x 2

WV IMM §10.4.A.1 outlines the budgeting method used for determining household income for SNAP benefits. Future income calculations are used when income from a new source is expected to be received in the certification period.

WV IMM 10.4.B.3 outlines the dependent care deduction. The dependent care deduction is allowed for payment for the care of a child or other dependent, when the expense is necessary for an Income Group member to accept, continue or seek employment or training, or pursue education which is preparatory to employment.

WV IMM 10.4.B.7.a outlines the shelter/utility deduction. Shelter and utility expense deductions must be allowed only if the Assistance Group (AG) is obligated to pay with the resources of the AG. The AG is no longer allowed the deduction when the expense is no longer billed or due. An expense does not have to be paid to be a deduction. Rent is considered a shelter deduction.

WV IMM 10.4.B.7.b identifies the Standard Utility Allowance (SUA) as a fixed deduction which is adjusted annually to allow for fluctuations in utility costs. AG's obligated to pay utility expenses from their own resources are eligible for an SUA deduction. Eligibility for the SUA must be evaluated at certification, redetermination and when the AG reports a change. AG's obligated to pay heating or cooling costs that are billed on a regular basis are eligible for the Heating/Cooling Standard (HCS) SUA.

WV IMM, Chapter 10, Appendix B - The current HCS deduction is \$345 per month.

### **DISCUSSION**

The Claimant contended that the Department erred by not allowing her a deduction for rent beginning in May 2015. Evidence indicated that the Claimant did not notify the Department she was responsible for rent until the date of the hearing. Policy indicates that changes reported by an AG take effect in the month following the report month, unless the report was made within 10 days of the benefit issuance. Because the Claimant did not report that she was responsible for rent until the date of hearing (May 12, 2015), she is not entitled to a rental deduction for the month of May 2015.

The Claimant contended that the Department erred in not allowing her a deduction for the HCS SUA. The Claimant provided her utility bill verifying that she was responsible for paying her heating/cooling costs on April 23, 2015. Because the Claimant's benefit issuance was scheduled for May 6, 2015, the Claimant reported the change more than ten days prior to her scheduled benefit issuance and should have been given the deduction for May 2015 SNAP benefits.

The Claimant contended that the Department erred in its calculation of her child care costs. In March 2015, the Claimant provided a billing statement which indicated that she was responsible for child care in the amount of \$27.00 per week in the month of March 2015. At the time the bill was submitted to the Department it indicated that the Claimant had a balance of \$54.00. It is unknown if the balance due was for previous weeks or if it had been paid by the Claimant prior to the hearing. The Claimant provided verification that she is responsible for child care costs in the amount of \$27.00 per week. Per policy weekly expenses are converted to a monthly amount by multiplying by 4.3.  $\$27 \times 4.3 = \$116.10$  per month. The Department calculated the Claimant's monthly child care expense at \$54 per month. The Department erred in its child care deduction calculation.

The Claimant contended that the Department erred in her income calculations, reporting that she was working fewer hours than what was initially reported on the employer verification form. The Claimant provided the Department with paystubs in the month of May 2015, which were used in determining the Claimant's June 2015 SNAP benefits and are not a part of the issue currently before the Board of Review. However, in reviewing the employer statement provided by the Claimant in March 2015, the Claimant verified that she worked from 8:30 a.m. until 5:00 p.m., five days per week. The statement further indicated that the Claimant was required to "clock out" for lunch for one hour each day. The employer statement indicated that the Claimant worked 7.5 hours per day at \$8.00 per hour.  $\$8.00 \times 7.5 \text{ hours} = \$60.00$  per day  $\times 5$  days per week = \$300.00 weekly, converted to a monthly amount as required by policy,  $\$300.00 \times 4.3 = \$1290$  per month. It is unknown how the Department determined that the Claimant's gross earned income totaled \$1376.00 per month. The Department erred in its calculation of the Claimant's gross earned income for May 2015 SNAP benefits.

### **CONCLUSIONS OF LAW**

- 1) Evidence revealed that the Department erred in calculating the Claimant's gross earned income as \$1376.00 for May 2015 SNAP benefits. The Claimant's gross monthly income for May 2015 was \$1290.00 per month, per policy.
- 2) Evidence revealed that the Department erred in calculating the Claimant's child care deduction as \$54.00 per month. The Claimant's child care deduction for May 2015 benefits should have been calculated as \$116.10 per month, per policy.
- 3) Evidence revealed that because the Claimant reported and verified that she was responsible for the heating and cooling costs at her residence more than ten days prior to her benefit issuance date; her SNAP AG was eligible for the HCS SUA effective May 2015, per policy.

### **DECISION**

It is the decision of the State Hearing Officer to **reverse** the Department's decision to decrease the Claimant's Supplemental Nutrition Assistance Program (SNAP) benefits to \$16 per month, effective May 1, 2015. This case is hereby **remanded** to the Department to correct the gross earned income calculation to \$1290, the child care deduction to \$116.10, and the SUA deduction to \$345 for the May 2015 SNAP benefits. Any additional benefits the Claimant is entitled to receive for the month of May 2015, shall be issued to the Claimant in accordance with policy.

**ENTERED this \_\_\_\_ Day of May 2015.**

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**Donna L. Toler**  
**State Hearing Officer**