



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

July 2, 2015



RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2109

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: Rebecca Robinson, WV DHHR, [REDACTED] Office

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

██████████,

Appellant,

v.

ACTION NO.: 15-BOR-2109

**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 June 30, 2015, on an appeal filed May 18, 2015.

The matter before the Hearing Officer arises from the March 23, 2015 decision by the Respondent to reduce the Appellant's Supplemental Nutritional Assistance Program (SNAP) benefits to \$41 per month, due to a change in the Appellant's income.

At the hearing, the Respondent appeared by Representative Trish Mullins, Economic Service Supervisor. Appearing as a witness for the Department was Rebecca Robinson, 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 Case recordings from Appellant's SNAP case record, from March 20 through May 14, 2015
- D-2 Judgment Order from the Family Court of ██████████, dated June 4, 2014
- D-3 Print-out from Appellant's SNAP case record indicating the calculations used in determining her monthly SNAP allotment
- D-4 WV Income Maintenance Manual (IMM), Chapter 10, §10.3.EEE
- D-5 Letter from Department to Appellant, dated March 23, 2015
- D-6 Letter from Department to Appellant, dated March 26, 2015

Appellant'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 March 23, 2015, the WV Department of Health and Human Resources (DHHR) issued to the Appellant a letter (Exhibit D-5) informing her that her monthly allotment of SNAP benefits would be \$41 per month beginning in April 2015. Her previous SNAP allotment amount was \$202. 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 reported receiving spousal support in the amount of \$200 per month. The Department entered into evidence a Judgment Order from the Family Court of [REDACTED] (Exhibit D-2), as verification of the income.
- 3) The Judgment Order (Exhibit D-2) awarded the Appellant \$200 in spousal support per month because her ex-husband had failed to pay his half of the debt the two of them had accrued while they were married, as was ordered in their original divorce decree. Also, after they separated, the ex-husband cashed in a 401k retirement account. He did not pay the tax liability for cashing in this account, so the IRS garnisheed the Appellant's income tax returns to pay the liability.
- 4) According to the Judgment Order (Exhibit D-2), the ex-husband was ordered to pay spousal support in the amount of \$200 per month until his half of the marital debt and the full amount of the 401k tax liability was repaid, an amount listed in the order as \$5,000.

APPLICABLE POLICY

The WV Income Maintenance Manual (WV IMM) Chapter 10, §10.3.EEEE states that spousal support is treated as unearned income in SNAP monthly allotment calculations.

DISCUSSION

The Appellant argued that her spousal support income should not have been counted against her SNAP monthly benefits because it is spousal support in name only. She testified that the Family Court of [REDACTED], awarded her the spousal support in order to reimburse her for the monies which should have been paid by her ex-husband.

The Department's representative testified that the Judgment Order (Exhibit D-2) clearly refers to the \$200 per month payment as spousal support. As such, she stated, the Department had no choice but to count this as unearned income in determining her SNAP monthly allotment.

The Judgment Order (Exhibit D-2) reads as follows in part:

WHEREFORE, it is accordingly ADJUDGED, ORDERED and DECREED that the Petitioner [Appellant] shall be granted a total judgment of five thousand dollars (\$5,000.00) for unpaid support, in which all is unpaid spousal support through April 30, 2014 . . .

The Judgment Order was signed by Jason D. Harwood, Family Court Judge of [REDACTED], on June 4, 2014.

CONCLUSIONS OF LAW

The Judgment Order clearly states that the \$200 awarded to the Appellant from the [REDACTED] Family Court is spousal support. As such, the Department was correct to count it as unearned income for the Appellant and to reduce her SNAP monthly allotment accordingly, pursuant to WV IMM §10.3.EEEE.

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 \$202 per month to \$41 per month in April 2015 due to the addition of unearned spousal support income.

ENTERED this 2nd Day of July, 2015.

Stephen M. Baisden
State Hearing Officer