



**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**

**Earl Ray Tomblin
Governor**

**Karen L. Bowling
Cabinet Secretary**

July 29, 2015

[REDACTED]

RE: [REDACTED] v WV DHHR
BOR ACTION NO.: 15-BOR-2492

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: Appellant'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**

██████████,

Appellant,

v.

Action No: 15-BOR-2492

**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 convened on July 29, 2015, on an appeal filed June 29, 2015.

The matter before the Hearing Officer arises from the February 20, 2015 decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits from \$511 to \$440 per month, effective April 1, 2015.

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

Department's Exhibits:

- D-1 IV-D-Financial Information computer screen print, dated December 2014 through June 2015
- D-2 Case Benefit Summary computer screen print (child support incentive), dated July 2012 through May 2015
- D-3 Case Benefit Summary computer screen print (child support pass-through), dated July 2012 through May 2015
- D-4 Case Benefit Summary computer screen print (WV WORKS cash assistance), dated September 2014 through April 2015
- D-5 Case Benefit Summary computer screen print (SNAP), dated November 2014 through August 2015
- D-6 Correspondence from DHHR ██████████ to the Appellant, dated February 17, 2015
- D-7 Correspondence from DHHR ██████████ to the Appellant, dated February 20, 2015

- D-8 SNAP Budget Sheets computer screen print, dated December 2014 through June 2015
- D-9 West Virginia Income Maintenance Manual Policy §10.3
- D-10 EBT Administrative System/Grant History through JP MorganChase, dated April 2015
- D-11 Case Comments computer screen print, dated December 23, 2014 through February 23, 2015
- D-12 West Virginia Department of Health and Human Resources Application for Benefits, with attachments, dated February 13, 2015
- D-13 Combined Application and Review Form (WV WORKS), dated February 19, 2015
- D-14 Correspondence from DHHR [REDACTED] to Appellant, dated February 17, 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) The Appellant is a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits. (Exhibit D-5)
- 2) On February 13, 2015, the Appellant completed an application for SNAP benefits. At the time of the application, the Appellant reported that she was responsible for rent in the amount of \$100 and was required to pay \$100 for electric which was used for heating and cooling the home. The Appellant admitted that she was behind in paying her rent and utilities, but that she was responsible for the bills and would have to pay them when she got the money to do so. (Exhibit D-11 and D-12)
- 3) On February 17, 2015, the Department issued the Appellant notice that her SNAP benefits had been approved for February 13, 2015 through February 28, 2015, in the amount of \$306. The Appellant's monthly income was listed as \$0 for February. She was given a standard deduction of \$0 and a shelter/utility deduction of \$445. (Exhibits D-6 and D-14)
- 4) On February 19, 2015, the Appellant completed an application for WV WORKS benefits. At the time of application, the Appellant reported that she was responsible for rent in the amount of \$100 and that she paid \$100 toward the cost of electricity. (Exhibit D-13)

- 5) On February 20, 2015, the Department mailed the Appellant notice that her SNAP benefits were being reduced effective April 1, 2015, due to a change in the standard deduction, an increase in income and a decrease in her shelter and utility expenses. The Appellant's monthly income was listed as \$390.64. She was given a standard deduction of \$155 and a shelter/utility deduction of \$0. (Exhibit D-7)
- 6) In the month of April 2015, the Appellant received \$25 through incentive benefits, \$72.64 through child support pass-through benefits, and \$340 through WV WORKS cash assistance. Her total income for the month of April 2015 was \$437.64. (Exhibits D-2 through D-4 and D-8)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) §10.3, provides a list of income sources which must be considered when calculating SNAP benefits. Income received through child support incentive, child support pass-through and WV WORKS are considered sources of unearned income and must be considered when calculating the SNAP budget.

WV IMM §10.4.A, provides the budgeting methods to be used by workers in determining income for an Assistance Group (AG). Eligibility is determined and benefits are issued on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. For all cases, the Worker must determine the amount of income (earned and unearned) that can be reasonably anticipated for the AG.

WV IMM §10.4.B, indicates that certain items may be allowed as income deductions to arrive at an AG's countable income. The expense must be billed or be due during the certification period in which the deduction is claimed. In addition, deductions from the AG's income are applied only if the expense is obligated to be met by the AG's own resources. An expense does not have to be paid to be a deduction.

WV IMM §10.4.B.2, defines a standard deduction. A Standard Deduction is applied to the total non-excluded income counted for the AG, after application of the Earned Income Disregard. The amount of the Standard Deduction is found in Chapter 10, Appendix B.

WV IMM §10.4.B.7, provides information regarding the Shelter/Utility Deduction. After all other exclusions, disregards and deductions have been applied, 50% of the remaining income is compared to the total monthly shelter costs and the appropriate Standard Utility Allowance (SUA). If the shelter cost/SUA exceeds 50% of the remaining income, the amount in excess of 50% is deducted. The expense must be allowed only if the 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. There is no time period for deciding when a AG is no longer allowed a deduction for the bill. The AG is no longer allowed the deduction when the expense is no longer billed or is no longer due. An expense does not have to be paid to be a deduction.

WV IMM §10.4.B.7.a, indicates that rent is considered a shelter cost.

WV IMM §10.4.B.7.b, defines the Standard Utility Allowance (SUA). 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. AGs that are obligated to pay a heating or cooling expense that is billed on a regular basis are eligible for the HCS. This does not mean that there must be a monthly billing for heating or cooling throughout the year. It means that there must be a regular bill for heating or cooling during the appropriate season. Heating expenses include, but are not limited to, the cost of electricity. Related costs are those expenses necessary to obtain the fuel or to operate the unit, such as electricity to run a gas furnace.

WV IMM Chapter 10, Appendix A, lists the current heating and cooling standard as \$345.

DISCUSSION

The Appellant indicated that she did not understand why her benefits were reduced for the month of April 2015. She reported that there had been no changes in her circumstances and questioned whether the income was correctly calculated. The Appellant argued that she only received \$340 in the month of April 2015, and that she did not receive the child support incentive of \$25.00 or the child support pass-through of \$72.64. The Department provided evidence in the form of a JP Morgan/Chase grant history showing that both the child support incentive and child support pass-through benefits were received by the Appellant. A review of income verified that she was issued a total of \$437.64 for the month of April through the WV WORKS program.

Notice letters mailed to the Appellant indicated that her SNAP benefits were being reduced due to an increase in income, a change in the standard deduction and a decrease in the shelter/utility deduction. A review of the case benefit summary demonstrated that the amount of income attributed to the Appellant for the SNAP benefit calculation differed from the amount indicated in the February 17, 2015 notice. Because the Appellant had no income for the month of February 2015, she did not receive the standard deduction. The standard deduction was reinstated for the month of April because the Appellant had reported income. The Appellant's shelter/utility deduction was reduced from \$445 to \$0 for the month of April 2015. The Department representative indicated that it would not have been changed unless there was a reported change or that it was discovered that the Appellant was not responsible for rent and/or utility expenses. There was no documentation provided by the Department to indicate a reason for the change in the shelter/utility deduction. It is unknown if the removal of the shelter/utility deduction was a result of a computer glitch or possibly worker error. Without evidence supporting justification for the removal of the deduction, it should be reinstated for the month of April 2015.

CONCLUSIONS OF LAW

- 1) The Department was correct in its decision to include income received by the Appellant through WV WORKS benefits, child support incentive benefits and child support pass-through benefits when calculating the Assistance Group's total gross income for the month of April 2015.
- 2) Policy requires that recipients of SNAP benefits be given a shelter and utility deduction when they are responsible for the payment of the bills. The Department erred in removing the shelter and utility deductions reported by the Appellant without documenting a reason to do so.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision to include income received through WV WORKS, child support incentive and child support pass-through in determining the Appellant's monthly SNAP benefit calculations for the month of April 2015. It is the decision of the State Hearing Officer to **REVERSE** the Department's decision to remove the Appellant's shelter and utility deduction in the calculation of her SNAP benefits for the month of April 2015. Any benefits owed to the Appellant as a result of removing the shelter/utility deduction for the month of April 2015, shall be restored.

ENTERED this ____ day of July 2015.

Donna L. Toler
State Hearing Officer