



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

January 30, 2015



RE: [REDACTED] v. WVDHHR
ACTION NO.: 14-BOR-3845

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Patricia Wentz, WVDHHR

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

██████████,

Claimant,

v.

Action Numbers: 14-BOR-3845

**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 January 21, 2015, on an appeal filed December 10, 2014.

The matter before the Hearing Officer arises from the October 10, 2014 decision by the Respondent to decrease the Claimant's Supplemental Nutrition Assistance Program (SNAP) benefits effective October 2014.

At the hearing, the Respondent appeared by Patricia Wentz, Economic Service Worker, WVDHHR. The Claimant appeared pro se and was represented by his Attorney-in-Fact, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 SNAP review form submitted via internet through Department's inROADS system on September 2, 2014
- D-2 Telephone interview appointment letter dated August 11, 2014
- D-3 Telephone interview appointment letter dated September 15, 2014
- D-4 Request for additional verification dated September 26, 2014
- D-5 Information from ██████████ received by Department on October 6, 2014
- D-6 SNAP Budget information from Department's computer system
- D-7 Notice of Decision dated October 10, 2014
- D-8 Fair Hearing Request form
- D-9 West Virginia Income Maintenance Manual Chapters 4.1, 10.4 and 14.1

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 and participated in a case redetermination by telephone on September 26, 2014, following his submission of an inROADS online review form (D-1).
- 2) At the time of the telephone interview, the Claimant reported that his Attorney-in-Fact, [REDACTED], with whom he resides, receives his monthly Supplemental Security Income (SSI) check and applies \$200 of his income to various shelter/utility costs in the household. The worker advised the Claimant, who suffered a traumatic brain injury and reportedly has memory problems, that the Department required a breakdown explaining what portion of his monthly income was used toward shelter costs and what portion was used toward utilities in order to give him the maximum shelter/utility deductions for which he may be eligible.
- 3) On September 26, 2014, the Department sent a verification checklist (D-4) to the Claimant, requesting that Ms. [REDACTED] provide a written statement explaining how the Claimant's SSI income was applied to monthly household expenses "such as \$200/rent, \$100/gas & \$100/elect."
- 4) On October 6, 2014, the Claimant provided a written statement (D-6) from Ms. [REDACTED] which states:

[REDACTED] currently receives \$480.67 from SSI. Below is the breakdown of how the money is dispersed:

Household expenses (rent & utilities): \$200
Medical Expenses (not covered by Medicaid): \$170
Personal Expenses (hygiene products, clothing, shoes, etc.): \$110
Savings: \$0.67
- 5) Patricia Wentz, Economic Service Worker with the Department, testified that she allowed no deductions for rent or utilities since Ms. [REDACTED] failed to provide a breakdown of how the Claimant's income was proportionally applied to those costs.
- 6) The Department sent the Claimant a Notice of Decision on October 10, 2014 (D-7), indicating that the Claimant would receive \$96 per month in SNAP benefits beginning October 1, 2014 (see Exhibit D-6). ESW Wentz testified that the Claimant's previous SNAP allotment had been \$189 per month.

- 7) Ms. [REDACTED] testified that she had not previously specified which portions of the \$200 were earmarked for shelter and utilities, as she is not required to do so by the Social Security Administration. She stated that because she has a mortgage payment, a portion of the Claimant's income is required to be used toward the cost of shelter. Ms. [REDACTED] indicated that she found no place to report medical expenses on the inROADS review form. She contended that the Department had previously made no effort to contact her regarding the deductions. ESW Wentz indicated that the shelter/utility costs must be broken down for SNAP purposes to determine what deductions the Claimant should receive.
- 8) The hearing record remained open until January 28, 2015, so that the Claimant could submit a breakdown of his shelter/utility expenses and verify medical expenses.
- 9) On January 26, 2015, ESW Wentz informed the Hearing Officer and Ms. [REDACTED] via electronic mail transmission that she had recalculated the Claimant's SNAP allotment upon submission of the additional information, and that the Claimant's new SNAP allotment would be \$194 effective February 2015. However, Ms. [REDACTED] contends that the increased benefits should be retroactive to October 2014.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 10.4.B provides a list of possible income deductions for the SNAP. These deductions include an earned income deduction of 20 percent, standard deduction, dependent care deduction (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), child support deduction, homeless shelter standard deduction, deduction for medical expenses, and shelter and utility deductions. Chapter 10.4.B(7) states that the expense must be allowed only if the Assistance Group is obligated to pay with the resources of the Assistance Group. There is no time period for deciding when an Assistance Group is no longer allowed a deduction for the bill. The Assistance Group is no longer allowed the deduction when the expense is no longer billed or no longer due.

West Virginia Income Maintenance Manual Chapter 4.1 (D-9) states that verification of a client's statement is required when information provided is inconsistent. It is an eligibility requirement that the client cooperate in obtaining necessary verification. Depending on the program, refusal to cooperate may result in disallowance of an income deduction. Chapter 4.1.A states that the primary responsibility for providing verification rests with the client.

DISCUSSION

Policy provides for deductions when calculating countable net income for SNAP purposes. These deductions include medical expenses, and deductions for shelter and utility costs. Policy states that the expense **must** (emphasis added) be allowed only if the Assistance Group is obligated to pay with the resources of the Assistance Group. Verification is required when information provided by the client is inconsistent, and refusal to cooperate may result in disallowance of an income deduction.

The Department received verification from Ms. [REDACTED] in October 2014, indicating that the Claimant pays \$200 per month toward shelter and utility costs at her residence. As the documentation failed to specify the portion of the \$200 used toward individual shelter and utility costs, the worker allowed deductions for neither shelter nor utilities. The Claimant's eligibility for specific utility allowances could not be determined based on the information provided; however, the Claimant verified that he paid \$200 per month for shelter/utility costs. Policy states that the expense must be allowed if the Assistance Group is obligated to pay it with the Assistance Group's resources. Therefore, the \$200 should have been considered as a shelter cost when computing the Claimant's SNAP eligibility. No verification of the Claimant's medical expenses was provided at the time of redetermination; therefore, the Department acted correctly in disallowing a deduction for medical expenses.

CONCLUSIONS OF LAW

The Department's action to disregard the Claimant's shelter expense of \$200 effective October 2014 cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to REVERSE the Department's action to disallow a shelter deduction in the Claimant's SNAP case effective October 2014. The case is remanded to the Department for recalculation of retroactive SNAP benefits for the period of October 2014 through January 2015, using shelter expenses of \$200 per month in conjunction with other deductions allowed during that same period.

ENTERED this 30th Day of January 2015.

**Pamela L. Hinzman
State Hearing Officer**

