



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

March 10, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1116

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Holly Edwards, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 16-BOR-1116

**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 March 10, 2016, on an appeal filed January 7, 2016.

The matter before the Hearing Officer arises from the December 28, 2015, decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Margaret Fain, Economic Service Supervisor. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Notice of Decision dated December 28, 2015

Appellant's Exhibits:

A-1 Printout of Medical Expenses from ██████████
A-2 Lease Agreement and Rent Receipt
A-3 Electric Bill

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 applied for Low Income Energy Assistance Program (LIEAP) benefits in December 2015. The application was denied as the Appellant's heating source (natural gas) was included in his monthly rent obligation.
- 2) The Appellant had previously been given a deduction for paying his heating source from his monthly income. The Respondent removed the Standard Utility Allowance (SUA) from the Appellant's case as it was determined that the Appellant was not responsible for paying his heating cost.
- 3) The loss of the deduction for paying his heating source caused the Appellant's SNAP benefits to decrease from \$65 to \$16 effective February 2016.
- 4) The Appellant pays rent of \$206 monthly, his electric bill and co-pays for his prescriptions. He receives Social Security \$841 monthly.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §10.4B, contains policy regarding income disregards and deductions, and explains the computations used to determine eligibility for SNAP benefits. Once eligibility is established, the SNAP benefit amount is determined by the countable monthly income (the amount of income that remains after all exclusions, disregards and deductions have been applied) and the number of individuals in the assistance group (AG).

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).

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.

To be eligible for the HCS, the AG must meet the following criteria:

- Heating or Cooling Costs

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, gas, oil, coal, wood, wood pellets and kerosene. Heating costs must be payments for the fuel item itself, and not for related costs. Related costs are those expenses necessary to obtain the fuel or to operate the unit, such as electricity to run a gas furnace.

Cooling costs are utility expenses related to the operation of air conditioning systems or room air conditioners. Fans are not considered air conditioners.

The expense for heating or cooling costs must be billed separate from the rent or mortgage payment of the residence, even if the AG combines those payments.

DISCUSSION

The Department decreased the Appellant's SNAP benefits because his primary heating source of natural gas was included in his monthly rent amount and was not billed separately. However, it is unclear from the testimony presented if the Appellant's apartment had air conditioning, which would entitle him to the Heating/Cooling Standard Utility Allowance. The Appellant's SNAP benefits were reduced as a result of his application for LIEAP and not during an eligibility review. As a result, the Department failed to fully explore the Appellant's entitlement to the appropriate Standard Utility Allowance.

CONCLUSIONS OF LAW

Whereas the Department failed to prove that the Appellant was no longer eligible to receive a deduction for the Heating/Cooling Standard Utility Allowance, a determination of the Appellant's SNAP allotment cannot be made.

DECISION

It is the decision of the State Hearing Officer to REVERSE the reduction of the Appellant's Supplemental Nutrition Assistance Program benefits and REMAND the matter back to the Department for further evaluation of all applicable income deductions.

ENTERED this 10th day of March 2016

**Kristi Logan
State Hearing Officer**