



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
P.O. Box 1247
Martinsburg, WV 25402

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

April 20, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1478

Dear [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,

Lori Woodward
State Hearing Official
Member, State Board of Review

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

cc: Peter VanKleeck, WV DHHR

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

██████████,

Appellant,

v.

ACTION NO: 16-BOR-1478

**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 April 19, 2016, on an appeal filed March 7, 2016.

The matter before the Hearing Officer arises from the shelter/utility expense deduction used in the calculation of the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefit allotment.

At the hearing, the Respondent appeared by Peter VanKleeck, Economic Service Supervisor. The Appellant was represented by his mother, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Summary
- D-2 Notice (EDC1) of eligibility dated February 1, 2016
- D-3 WV Income Maintenance Manual (IMM) §2.2 (excerpt)

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 and his mother went to the local Department of Health and Human Resources (DHHR) office on September 24, 2015 to apply for SNAP and Medicaid benefits. The Appellant had no shelter or utility expenses at the time of application. The application was pended for income verification. Upon verifying his income, the Appellant's SNAP benefits were approved and notice was sent to the Appellant on October 8, 2015.
- 2) The Appellant reported a loss of income sometime in October 2015, and his SNAP benefits were increased.
- 3) The Appellant reported the start of Supplemental Security Income (SSI). His SNAP benefits were decreased and notice was sent on February 1, 2016 that the Appellant's March SNAP benefits were reduced due to his SSI income (Exhibit D-2).
- 4) On March 7, 2016, rent and utility expenses were reported and the Appellant's SNAP benefits increased for April 2016. (Exhibit D-1)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (IMM) §2.2.B requires that all SNAP Assistance Groups (AG) must report changes related to eligibility and benefit amount at application and redetermination. SNAP AGs are subject to limited reporting requirements. Limited reporting requirements mandate that all AG's report when the total gross earned and unearned income of the AG and all other individuals who reside with the AG exceeds the AG's gross income limit. If the household contains one or more Able Bodied Adult Without Dependents (ABAWDs) who are exempt from the ABAWD work requirements, the household must report when an ABAWD loses his exemption or when that person's work hours are reduced to less than 20 hours a week, averaged monthly. These changes must be reported no later than the 10th calendar day of the month following the month in which the change occurs. However, no other changes are made for these AGs unless the information is reported by an AG member, comes from a source which is verified upon receipt, or from a source which is considered reported. All changes reported directly by an AG member, the AG's authorized representative and/or authorized EBT cardholder, or from a source that is listed as verified upon receipt below must be acted on, even if the AG is not required to report the information. Reported changes are not effective the month they are reported.

IMM §2.2.C, explains that the first month that a reported change is effective is the month following the month the change is reported. The only exception to this is when the Department had the information prior to the month it is reported and failed to act on the information in a timely manner.

IMM §10.4.B.7 instructs that shelter and utility expenses may be deducted after all other exclusions, disregards and deductions have been applied. Then 50% of the remaining income is

compared to the total monthly shelter costs and the appropriate Standard Utility Allowance (SUA). If the shelter costs/SUA exceeds 50% of the remaining income, the amount in excess of 50% is deducted. The deduction cannot exceed the shelter/utility cap found in Appendix B. An exception to the cap on the shelter/utility deduction occurs when the SNAP AG includes an individual who is elderly or disabled, as defined in Section 12.15.B. 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.

IMM §1.2.E, explains it is the client's responsibility is to provide information about his circumstances so the worker is able to make a correct decision about his eligibility.

DISCUSSION

The Supplemental Nutrition Assistance Program (SNAP) is a limited reporting program. As such, the Assistance Group (AG) members are only required to report changes at application and reviews when the total gross earned and unearned income of the AG and all other individuals who reside with the AG exceeds the AG's gross income limit and if an exempted ABAWD loses their exemption. Otherwise, it is up to the AG member to report any non-mandated changes which may affect the SNAP benefits during a certification period.

The Appellant's representative, [REDACTED] (Ms. [REDACTED]) contended that the Department worker failed to ask any questions about any shelter or utility expenses on the SNAP interview in September 2015. However, the Respondent's representative, Peter VanKleeck (Mr. VanKleeck), Economic Services Supervisor, testified that the case comments by the interviewing worker which recorded a summary of the application interview done on September 24, 2015, noted that "all expenses were paid by [REDACTED] [Ms. [REDACTED]]". After having her memory refreshed, Ms. [REDACTED] agreed with that statement stating, "I had to do that".

As a limited reporter for SNAP benefits, the Appellant was not required to report any information other than income or ABAWD status between certification periods. However, when Ms. [REDACTED] did report that the Appellant had shelter/utility expenses on March 7, 2016, the Department acted correctly by including these expenses in the Appellant's SNAP calculations for April 2016. (Note, the amount of the shelter/utility expenses used was not at issue.)

CONCLUSION OF LAW

The Appellant did not report any shelter and/or utility expense until March 7, 2016. Per policy, the Respondent correctly applied the calculated shelter/utility expense to the Appellant's calculations of his SNAP benefits for the following month.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's decision to apply the Appellant's shelter and/or utility expense to the Appellant's SNAP benefit calculations beginning April 2016.

ENTERED this 20th day of April 2016.

Lori Woodward, State Hearing Official