



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 West Washington Street
Charleston, WV 25313

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

March 15, 2017



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1210

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,

Natasha Jemerison
State Hearing Officer
Member, State Board of Review

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

cc: Tera Pendleton, ESW

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

██████████,

Appellant,

v.

Action Number: 17-BOR-1210

**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 14, 2017, on an appeal filed January 31, 2017.

The matter before the Hearing Officer arises from the February 1, 2017 decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits due to an increase in income.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case Comments computer screen print, dated November 23, 2016 through January 31, 2017
- D-2 Child Support Disbursements computer screen prints, dated November 2011 through January 2017
- D-3 Unearned Income computer screen print, dated January 31, 2017
- D-4 Case Benefit Summary computer screen print, dated June 2016 through February 2017
- D-5 Notice of Decision, dated February 1, 2017

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.
- 2) The Appellant has received \$512.50 monthly child support arrearages since 2011. (D-2)
- 3) The child support arrearages were added to the Appellant's case January 2017. (D-1 and D-3)
- 4) Due to the increase in unearned income, the Appellant's SNAP benefits decreased from \$197.00 to \$16.00, effective February 1, 2017. (D-4)
- 5) On February 1, 2017, the Appellant was notified that her SNAP benefits would decrease due to an increase in unearned income. (D-5)

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), at §10.2, reads:

Income is defined as any and all monies received from any source.

The determination of countable income is necessary, because it is, generally, the countable income which is tested against maximum income limits.

The first step in determining countable income is to determine all the incoming monies to the AG [assistance group] and to those whose income is counted for or deemed to the [assistance group].

Once all incoming monies have been identified, they are compared to the income exclusions listed in this Chapter, and, if applicable, the income from any excluded source is subtracted from the incoming monies.

After all income exclusions have been applied, some of the remaining incoming monies may qualify for certain disregards and deductions as outlined in the sections for each specific program.

WV IMM §10.3 lists income from child support arrearages as countable unearned income for SNAP.

DISCUSSION

During a Supplemental Nutrition Assistance Program (SNAP) case review, the Department verified the Appellant received monthly child support arrearages payments in the amount of \$512.50. The unearned income was added to the Appellant's case, and her SNAP benefits decreased from \$197.00 to \$16.00, effective February 1, 2017. The Appellant requested a fair hearing due to the decrease of SNAP benefits.

Policy defines income as any and all monies received from any source. For SNAP, child support arrearages are counted as unearned income. This income must be reported and tested against maximum income limits.

The Appellant testified that she reported the unearned income from child support arrearages at every review she has completed with the Department. She stated it was not her fault that the income was not added to her SNAP case before January 2017. She added that she felt as though the child support arrearages should be excluded, because it was not previously added.

The Department's representative, Tera Pendleton, testified that the Appellant has received child support arrearages since 2011. She stated there was no evidence to suggest the Appellant reported this unearned income. Ms. Pendleton stated the Department maintains an internal data exchange that allows workers to view child support payments received through the Bureau for Child Support Enforcement, and that was where the worker discovered the child support arrearages received by the Appellant.

Both the Department and the Appellant agree the Appellant receives \$512.50 monthly child support arrearages. Because policy lists child support arrearages as countable unearned income for SNAP, the Department was correct in its decision to add the income to the Appellant's SNAP case.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, child support arrearages are counted as unearned income for SNAP.
- 2) The Department acted correctly in reducing the Appellant's SNAP benefits based on an increase in unearned income.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's proposal to reduce the Appellant's SNAP benefits.

ENTERED this 15th day of March 2017

**Natasha Jemerison
State Hearing Officer**