



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 Crouch  
Cabinet Secretary

August 2, 2017



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-2095

Dear Mrs. [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: Martha Cooper, ESW  
Debbie Fields, ESS

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

██████████,

**Appellant,**

v.

**Action Number: 17-BOR-2095**

**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 July 27, 2017, on an appeal filed July 12, 2017.

The matter before the Hearing Officer arises from the July 12, 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 Martha Cooper, Economic Service Worker. Appearing as a witness for the Department was Debbie Fields, Economic Service Supervisor. The Appellant was present and represented by her husband ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notices of Decisions, dated July 12, 2017
- D-2 Supplemental Nutrition Assistance Program (SNAP) review, dated May 15, 2017
- D-3 Paystubs, dated May 17, 2017, May 31, 2017, June 14, 2017, and June 28, 2017 and Employment Income computer screen prints
- D-4 Case Comments computer screen prints
- D-5 Case Benefit Summary and SNAP Budget computer screen prints

**Appellant's Exhibits:**

- A-1 Paystubs, dated January 2017 through July 2017
- A-2 Appellant's income calculations

### A-3 Appellant's summary

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's SNAP benefits closed effective June 30, 2017, because she failed to provide verification of her earned income as requested by the Department.
- 3) On July 7, 2017, the Appellant provided four (4) paystubs, dated May 17, 2017, May 31, 2017, June 14, 2017, and June 28, 2017. Her SNAP case was opened with prorated benefits beginning July 7, 2017. (D-1 and D-3)
- 4) The Appellant works an average of 32 hours per week and is paid bi-weekly.
- 5) The Appellant's earned income fluctuates depending on whether she uses paid time off (PTO) and the receipt of quarterly bonuses. (D-3 and A-1)
- 6) The Department excluded the Appellant's paystub dated June 28, 2017, from the SNAP calculation because it reflected fewer hours than what the Appellant regularly works. (D-3 and D-4)
- 7) The Appellant's monthly SNAP allotment decreased from previous months. (D-5)
- 8) The Appellant and her husband contested the Department's decision to use the Appellant's paystubs dated May 31, 2017 and June 14, 2017, because they both have PTO hours and pay which the Appellant does not usually receive. (D-3 and A-1)

#### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual §§10.4(A) and 10.6(B) explains eligibility for SNAP and Adult Medicaid is determined and benefits are issued monthly. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. For all cases, income is projected; past income is used only when it reflects the income the client reasonably expects to receive. Past income is used when the amount of income is expected to continue throughout the certification period. Future income is used when the rate of pay or the number of hours worked for an old source is expected to change during the certification period.

WV IMM §10.4 explains when the frequency of receipt of pay is more often than monthly and the amount fluctuates, the worker must find the average amount and convert it to a monthly amount. The purpose of finding an average amount of fluctuating income is to even out the highs and lows in the amount of income. Conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows:

- Weekly amount x 4.3
- Bi-weekly amount x 2.15
- Semi-monthly x 2

### **DISCUSSION**

The Appellant's SNAP benefits closed effective June 30, 2017, because she failed to provide verification of her earned income as requested by the Department. Her SNAP case was reopened with prorated benefits beginning July 7, 2017. The Appellant's monthly SNAP allotment decreased from previous months and she requested a fair hearing to dispute the Department's calculations.

Policy explains it is necessary to determine a monthly amount of income to count for the SNAP eligibility period. For all cases, income is projected. When the frequency of receipt of pay is more often than monthly and the amount fluctuates, the worker must find the average amount and convert it to a monthly amount. The purpose of finding an average amount of fluctuating income is to even out the highs and lows in the amount of income.

On July 7, 2017, the Appellant provided four (4) paystubs, dated May 17, 2017, May 31, 2017, June 14, 2017, and June 28, 2017. The Appellant works an average of 32 hours per week and is paid bi-weekly. The Department excluded the Appellant's paystub dated June 28, 2017, from the SNAP calculation because it reflected fewer hours than what the Appellant regularly works, but did not exclude the paystub dated June 14, 2017, which reflected more hours than what the Appellant regularly works.

Because the Department is required to find the average monthly income amount, it erred in the way the Appellant's earned income was calculated. Since the Department chose to include the Appellant's paystub that had more hours and a higher gross income amount, the paystub with fewer hours and lower gross income amount should also be used to determine the Appellant's eligibility for SNAP.

### **CONCLUSIONS OF LAW**

- 1) Pursuant to policy, when the frequency of receipt of pay is more often than monthly and the amount fluctuates, the worker must find the average amount and convert it to a monthly amount. The income should be averaged to even out the highs and lows in the amount of income.
- 2) The Department was incorrect in its decision to exclude the Appellant's paystub dated June 28, 2017, from the SNAP calculation.

## **DECISION**

It is the decision of the State Hearing Officer to **remand** the matter to the Department to recalculate the Appellant's monthly SNAP allotment by using all the paystubs dated May 17, 2017, May 31, 2017, June 14, 2017, and June 28, 2017 provided by the Appellant. Following the re-calculation, the Department shall notify the Appellant of its decision, which shall include the right to a Fair Hearing.

**ENTERED this 2<sup>nd</sup> day of August 2017**

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**Natasha Jemerison**  
**State Hearing Officer**