



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Jim Justice
Governor**

**BOARD OF REVIEW
416 Adams St.
Suite 307
Fairmont, WV 26554
304-368-4420 ext. 79326**

**Bill J. Crouch
Cabinet Secretary**

October 3, 2017



RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-2255

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 Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson
State Hearing Officer
State Board of Review

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

cc: Amanda Williamson

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

██████████,

Appellant,

v.

ACTION NO.: 17-BOR-2255

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 September 21, 2017, on an appeal filed August 7, 2017.

The matter before the Hearing Officer arises from the August 8, 2017 decision by the Department to decrease the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Amanda Williamson, Economic Services Worker. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- D-1 Notice of SNAP closure, dated July 18, 2017
- D-2 Notice of SNAP decrease, dated August 8, 2017
- D-3 Notice to submit documentation, dated July 3, 2017
- D-4 West Virginia Income Maintenance Manual (WVIMM), Chapter 6.3

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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant is a recipient of SNAP benefits.
- 2) On July 3, 2017, the Respondent issued a notice advising the Appellant to submit an Employer Statement and a Post-Employment services option form to the Respondent by July 14, 2017 or the Appellant's benefits would be stopped or decreased effective August 1, 2017. (Exhibit D-3)
- 3) The Appellant did not submit the required documentation to the Respondent by July 14, 2017. (Exhibit D-1)
- 4) On July 18, 2017, the Respondent issued a notice advising the Appellant that her SNAP benefits would stop effective August 1, 2017, due to the Appellant failing to submit all information requested by the Respondent. (Exhibit D-1)
- 5) The Appellant submitted the requested information to the Appellant after July 14, 2017.
- 6) On August 8, 2017, the Respondent issued a notice advising the Appellant that her SNAP benefits would decrease from \$511.00 to \$10.00 effective August 1, 2017. (Exhibit D-2)
- 7) The August 8, 2017 notice reflects that the Appellant's SNAP reduction was due to the Appellant's earned income increase. (Exhibit D-2)
- 8) The Respondent's calculations for arriving at the decreased amount are recorded in the August 8, 2017 notice. (Exhibit D-2)
- 9) The Appellant's Gross Earned Income was \$1505. (Exhibit D-2)
- 10) The Appellant's Assistance Group (AG) size was three (3). (Exhibit D-2)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) §10.4 B Income Disregards and Deductions provides in part:

Certain items may be allowed as income deductions to arrive at an Assistance Group's (AG) countable income...

1. Earned Income Disregard: Twenty percent (20%) of gross non-excluded earned income, including gross profit from self-employment, is disregarded. This disregard is applied to the combination of earnings of all members of the AG and to those persons whose income is counted or deemed...

2. Standard Deduction: A Standard Deduction is applied to the total non-excluded income counted for the AG after application of the Earned Income Disregard...

7. Shelter/Utility Deduction: After all other exclusions, disregards, and deductions have been applied, 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 exceed 50% of the remaining income, the amount in excess of 50% is deducted...

WVIMM §10.4 C Determining Eligibility and Benefit Level provides in part:

The process of determining eligibility and the amount of the benefit differs when an Assistance Group (AG) member is elderly or disabled.

1. Determining Eligibility:

- When no AG member is elderly or disabled, the gross income must be equal to or less than the gross income limit in Appendix A. If so, the AG qualifies for the disregards and deductions in Section 10.4 B. If the gross income exceeds the amount in Appendix A, the AG is ineligible.

2. Determining Countable Income:

Step 1: Combine monthly gross non-excluded earnings and monthly gross profit from self-employment.

Step 2: Deduct 20% of Step 1.

Step 3: Add the gross non-excluded unearned income, including the WV WORKS benefit and any amount reduced or being repaid to the WV WORKS

Step 4: Subtract the Standard Deduction...

Step 5: Subtract the allowable Dependent Care Expenses

Step 6: Subtract the amount of legally obligated child support actually paid.

Step 7: Subtract the Homeless Shelter Standard Deduction...

Step 8: Subtract allowable medical expenses in excess of \$35

Step 9: Calculate 50% of the remaining income and compare it to the actual

monthly shelter/ SUA Amount.

Step 10: ... Shelter/SUA Equal to or Less than Step 9- No further computation needed...

3. Determining the Amount of the Benefit:

- Multiply net income by 30%
- Subtract 30% of net income from the maximum monthly benefit for the AG size

WVIMM §6.3. C.2 reads in part:

All other adverse actions require 13-day advanced notice... The following actions do not require advanced notice:

- A mass change is initiated, such as the annual updates of SNAP...
- For SNAP benefits only, when the benefit is terminated or reduced as a result of a redetermination
- When the client has signed a DFA-NL-5 to waive her right to a 13-day advance notice

WVIMM §6.3. C.2a. reads in part:

The notice must include the fact that the SNAP AG is closed or the benefit amount is decreased, the date that the action becomes effective, the reason for the action, the Manual section on which the decision is based, and any other action taken.

DISCUSSION

The Respondent initially issued notice to the Appellant advising that the Appellant was required to submit requested documentation to the Respondent by July 14, 2017 or the Appellant's benefits could be reduced or terminated effective August 1, 2017. The Appellant failed to provide the requested documents timely to the Respondent and as a result a notice was issued on July 18, 2017 advising the Appellant that her SNAP benefits would be terminated effective August 1, 2017. The Appellant submitted to the requested documents to the Respondent after the July 14, 2017 deadline. The Respondent reviewed the Appellant's documents and determined that due to an earned income increase, the Appellant's SNAP benefits would be reduced. On August 8, 2017, the Respondent issued a notice to the Appellant advising that the Appellant's SNAP benefits would decrease from \$511 to \$10 effective August 1, 2017. The Appellant contends that she did not receive timely notice of the SNAP benefit decrease. During the fair hearing, the Appellant argued that she does not believe the amount of SNAP benefits was fair.

The Respondent must demonstrate by a preponderance of evidence that the Respondent issued proper and timely notification to the Appellant prior to implementing any adverse action to the Appellant's benefits. The Respondent entered two notices into evidence advising the Appellant of the risk of adverse action, and the decision to terminate her SNAP benefits because of failing to provide requested documentation to the Respondent by July 14, 2017. It was not contested that the

Appellant submitted the requested documentation after the July 14, 2017 deadline. The Respondent testified during the fair hearing that the Appellant's case still had to be closed per policy and then re-opened because of the missed deadline to receive the requested documentation. The Respondent testified that the Respondent had no record of any additional notices being sent to the Appellant advising her of adverse action to her SNAP benefits between the July 18, 2017 notice and the August 8, 2017 notice. The Respondent testified during the hearing that she did not know why the August 8, 2017 notice had been issued. During the hearing, the Respondent contended that although the August 8, 2017 notice was issued after the effective date of the Appellant's SNAP reduction, the Appellant had received significant notice of adverse action due to the Appellant's receipt of the July 3, 2017 and July 18, 2017 notices. The Appellant testified that she did not understand how the termination notices were related to the reduction notice and contended that she did not receive proper notice to allow her to appropriately budget her income for the month of August 2017.

It is the decision of this Hearing Officer, that the issues of termination of the Appellant's SNAP benefits due to failure to provide requested documentation and decrease of the Appellant's SNAP benefits due to an earned income increase, are separate and therefore require separate notices of adverse action. It was not demonstrated by a preponderance of evidence that the Respondent issued proper and timely notification to the Appellant prior to implementing a decrease to the Appellant's SNAP benefits.

The Appellant contended that the amount of reduced SNAP benefits was unfair. The Respondent must demonstrate that the amount of the reduced SNAP benefits was properly calculated. The August 8, 2017 notice issued by the Respondent notified the Appellant of the reduced SNAP benefit amount pursuant to WVIMM §10.4. C. The notice demonstrates clear calculation of the Appellant's benefit amount and correctly corresponds to the WVIMM manual cited. The Respondent demonstrated by a preponderance of evidence that it correctly calculated the amount of the Appellant's SNAP benefits.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, the Respondent did not issue notice to the Appellant 13-days in advance of the Respondent's reduction in the Appellant's SNAP benefits.
- 2) Pursuant to policy, the Respondent correctly calculated the amount of the Appellant's SNAP benefits.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Department's decision to reduce the Appellant's SNAP benefits effective August 1, 2017. The matter is hereby **REMANDED** to reinstate the Appellant's benefits until proper notice of adverse action is issued.

ENTERED this 3rd day of October 2017.

Tara B. Thompson
State Hearing Officer