



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

**Jim Justice
Governor**

**Bill J. Crouch
Cabinet Secretary**

September 26, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR, ACTION NO.: 17-BOR-2379

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 Officer
Member, State Board of Review

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

cc: John Oglesbee, [REDACTED] Co. WV DHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-2379

**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 20, 2017, on an appeal filed August 30, 2017.

The matter before the Hearing Officer arises from the Respondent's August 25, 2017 determination of Supplemental Nutrition Assistance Program (SNAP) benefit allotment.

At the hearing, the Respondent appeared by Janell Johnson, Family Support Supervisor. The Appellant appeared *pro se*. The witnesses were sworn. There were no documents presented to admit into evidence.

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's SNAP application was approved with notice to her on August 25, 2017.
- 2) The Appellant's husband's earned income is deducted by 25% per pay period for a court ordered garnishment related to an outstanding consumer debt.
- 3) WV SNAP policy does not allow consumer debt garnishments from the earned income of an assistance group member as a deduction for SNAP calculation purposes.

- 4) Although the Appellant's shelter/utility costs were not reflected in the August 25, 2017 notice of benefit approval due to a computer glitch, \$500 per month rent and the highest utility standard deduction is being considered in her monthly SNAP allotment calculations.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (IMM) §10.4.B enumerates allowable disregards and deductions from gross income in calculating the monthly SNAP allotment an Assistance Group (AG) is eligible to receive.

IMM §10.4.B.7, Shelter/Utility Deduction, explains that 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. The deduction cannot exceed the shelter/utility cap found in Appendix B.

IMM §10.4.B.12(a) specifically states that withheld income from earned income earnings that are withheld to repay an advance payment are excluded, if they were counted in the month received. If not counted in the month received, the withheld earnings are considered income. No other earned income is excluded from consideration just because it is withheld by the employer. [Emphasis added] This includes income garnishments, such as child support.

DISCUSSION

The Appellant's SNAP application was approved and notice was sent on August 25, 2017. This notice showed that the Appellant was not given any deductions for shelter/utility costs or the garnishment made against the Appellant's husband's earned income which reduced his gross income by 25% per pay period. The Appellant contended that the Respondent should have used the reduced income amount to calculate their monthly SNAP allotment.

The testimony showed that the garnishment was due to her husband's outstanding consumer debt. Per policy, this is not an allowable exclusion from income for SNAP calculation purposes.

It is noted that the Respondent's representative confirmed that the Appellant's shelter costs of \$500 per month in addition to the highest standard utility deduction amount was used in the calculations of the Appellant's monthly SNAP allotment. The Respondent's representative testified that the computer system contained a glitch wherein the shelter/utility costs were not reflected in the "Other Information" section of the notice. A correct copy of the approval letter is being sent to the Appellant post-hearing.

CONCLUSIONS OF LAW

- 1) The Appellant's husband has an outstanding consumer debt garnishment attached to his earned income, resulting in a 25% reduction from his income each pay period.
- 2) Per policy, consumer debt garnishments are not considered excluded income from SNAP allotment calculations.
- 3) The Respondent correctly used the Appellant's husband's gross earned income in calculating her monthly SNAP benefit allotment.
- 4) The Appellant is receiving the correct shelter/utility deductions in the calculations for her monthly SNAP benefit allotment.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's determination to disallow the consumer debt garnishment attached to the Appellant's husband's earned income in determining the Appellant's monthly SNAP benefit allotment.

ENTERED this 26th day of September 2017.

Lori Woodward, State Hearing Officer