



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

January 10, 2017

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-3052

Dear Mr. [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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Sara Vandergrift, Department Representative

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

██████████,

Appellant,

v.

Action Number: 16-BOR-3052

**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 December 6, 2016, on an appeal filed November 21, 2016.

The matter before the Hearing Officer arises from the Respondent's November 15, 2016 decision to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Sara Vandergrift. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of decision, dated November 15, 2016
- D-2 Screen prints from the Respondent's data system detailing the Appellant's SNAP allotment determination, effective November 1, 2016
- D-3 Screen prints from the Respondent's data system detailing the Appellant's SNAP allotment determination, effective December 1, 2016
- D-4 Hearing Summary

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 was a recipient of SNAP benefits.
- 2) The Appellant was eligible for a monthly allotment of \$194 in SNAP benefits in November 2016. (Exhibit D-2)
- 3) During a review of eligibility, the Respondent discovered the Appellant was receiving credit for two types of income deductions – medical expenses and child support payments – in error.
- 4) The Appellant's medical deduction consisted of a Medicare premium paid by the Respondent through the Appellant's Medicaid coverage.
- 5) At the time of the Respondent's review of the Appellant's eligibility, the Appellant had not paid child support since March 2016.
- 6) When the Respondent removed these deductions from consideration, the Appellant was determined eligible for a monthly allotment of \$98 in SNAP benefits, beginning in December 2016. (Exhibit D-3)
- 7) The Respondent notified the Appellant of the decision to reduce his SNAP benefits on November 15, 2016. (Exhibit D-1)

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.

At §10.4.B.4, the WVIMM provides a SNAP income deduction for child support, and reads, “A deduction is allowed based only on payments actually made, not the legally obligated amount, and may not exceed the legal obligation.”

At §10.4.B.6, the WVIMM reads, “Medical expenses in excess of \$35 must be allowed as a medical deduction.” At §10.4.B.6.a, a list of allowable expenses in this category is provided, which includes “Medicare premiums, except for cases in which the Department is paying the premium.”

DISCUSSION

The Appellant requested a hearing to contest the decision of the Respondent to reduce his monthly allotment of SNAP benefits. The Respondent made its determination based on the discovery that the Appellant was receiving credit for income deductions in error.

The Respondent must show, by a preponderance of the evidence, that their determination of the Appellant’s monthly SNAP allotment – reflecting the removal of these income deductions – is correct.

The Respondent maintains a data exchange with the Social Security Administration that allowed it to verify the Appellant’s income. The Respondent provides the Appellant with the form of Medicaid that covers his monthly Medicare premium. The Respondent also maintains an internal data exchange that allows workers for the Bureau for Children and Families to view child support payments made through the Bureau for Child Support Enforcement. The Appellant’s testimony that he still has these expenses was unclear and unconvincing, particularly without evidence to refute the Respondent’s direct access to its own data.

The Respondent was correct to remove these income deductions, and the resulting reduction of the Appellant’s monthly SNAP allotment from \$194 to \$98.

CONCLUSIONS OF LAW

- 1) Because the Appellant is not paying a Medicare premium, he is not eligible for a SNAP income deduction for medical expenses.
- 2) Because the Appellant is not paying child support, he is not eligible for a SNAP income deduction for child support.
- 3) Because the Appellant is not eligible for these two income deductions, the Respondent must reduce his monthly SNAP allotment – according to the calculation methods set by SNAP policy – from \$194 to \$98.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's reduction of the Appellant's SNAP benefits.

ENTERED this ____ Day of January 2017.

Todd Thornton
State Hearing Officer