



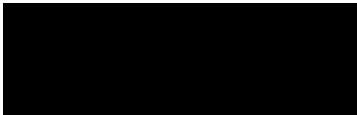
STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

Bill J. Crouch
Cabinet Secretary

Board of Review
416 Adams Street Suite 307
Fairmont, WV 26554
304-368-4420 ext. 79326

Jolynn Marra
Interim Inspector General

November 14, 2018



RE: [REDACTED] v. WVDHHR
ACTION NO.: 18-BOR-2423

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 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,

A handwritten signature in blue ink, appearing to read "Tara B. Thompson".

Tara B. Thompson
State Hearing Officer
State Board of Review

Enclosure: Appellant's Recourse
Form IG-BR-29

cc: David Griffin, Ohio County DHHR

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

[REDACTED]

Appellant,

v.

ACTION NO.: 18-BOR-2423

**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 [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (DHHR) Common Chapters Manual. This fair hearing was convened on November 8, 2018, on an appeal filed September 24, 2018.

The matter before the Hearing Officer arises from the June 14, 2018 determination by the Respondent to decrease the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by David Griffin, Economic Service Supervisor. Appearing as witness for the Respondent was Carrie Casto, Economic Service Supervisor. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 DHHR Notice, dated June 14, 2018
- D-2 *
- D-3 [REDACTED] Federal Credit Union Account Statement, dated April 1, 2015
- D-4 Email Correspondence, dated August 30, 2018
- D-5 DHHR Notice, dated August 30, 2018

Appellant's Exhibits:

- A-1 Addendum Statement, stamped received August 26, 2016
- A-2 SNAP Change Form, stamped received September 2016
- A-3 [REDACTED] Bank Letter, scanned November 27, 2017
- A-4 [REDACTED] Federal Credit Union Account Statement, scanned November 27, 2017
- A-5 [REDACTED] Federal Credit Union Account Statement, stamped received November 30, 2016
- A-6 [REDACTED] Bank Letter, dated November 29, 2016
- A-7 [REDACTED] Federal Credit Union Statement, stamped received August 26, 2016
- A-8 DHHR Medical Review Form, signed May 18, 2015

- A-9 DHHR Medicaid Review Form, dated May 12, 2014
- A-10 DHHR SNAP Application Form, stamped received January 28, 2013
- A-11 DHHR Verification Checklist, dated January 28, 2013; Sofite Letter, dated January 31, 2013; and DHHR Application for Low Income Energy Assistance, stamped received January 31, 2013
- A-12 [REDACTED] Bank Letter, dated December 12, 2013; and [REDACTED] Federal Credit Union Statement, dated June 1, 2013;

Joint Exhibits:

- J-1 Addendum Statement, stamped received June 12, 2018

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.

- * D-2 omitted due to being re-labeled as J-1

FINDINGS OF FACT

- 1) The Appellant is a recipient of SNAP benefits for a one-person Assistance Group (AG). (Exhibit D-1)
- 2) The West Virginia Income Maintenance Manual was updated in 2017 after the Appellant's 2017 SNAP review.
- 3) The Appellant completed a SNAP review in June 2018.
- 4) On June 14, 2018, the Respondent issued a notice advising the Appellant that her monthly SNAP benefits would decrease, due to a \$235.21 increase in her income. (Exhibit D-1)
- 5) The Appellant receives \$151 in SSI and \$297 in SSDI per month.
- 6) The Appellant receives \$321.70 in Period Certain Annuity benefits per month. (Exhibits J-1, A-1, A-2, and A-8 through A-12).
- 7) The Appellant receives \$245.30 in Life Only Annuity benefits annually. (Exhibits J-1, A-1, A-2, and A-8 through A-12)
- 8) The Appellant receives \$2,577.17 in Temporary Life Annuity benefits annually. (Exhibits J-1, A-1, A-2, and A-8 through A-12)
- 9) The Respondent included the Appellant's Life Only Annuity and Temporary Life Annuity benefits when calculating the amount of the Appellant's income to determine the Appellant's 2018 SNAP benefit allotment but had not included them when determining the Appellant's SNAP benefit allotment in previous years. (Exhibit D-1)
- 10) The pro-rated monthly amount of the Appellant's annual annuities equaled \$235.21. (Exhibits J-1 and D-1)

- 11) The Appellant has a Compensation Medical account used to pay medical costs. (Exhibits D-3, A-2, A-4, and A-5)
- 12) The Respondent did not include the Appellant's Compensation medical account in calculating the Appellant's income to determine her 2018 SNAP benefit allotment amount. (Exhibit D-1)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) §4.3.1.9 provides in part:

When determining Supplemental Nutrition Assistance Program (SNAP) benefit eligibility and amount, annuity payments are counted as unearned income.

WVIMM §4.4.1.D provides in part:

When income is received monthly, use the actual monthly amount. When the income is received annually, prorate to find the amount for the intended period. Proration of income to determine a monthly amount is accomplished by dividing the amount received by the number of time periods it is intended to cover:

$\text{Annual Amount} \div 12 = \text{prorated monthly amount}$

WVIMM 4.4.4.K provides in part:

Recurring lump-sum payments received by a client are treated as unearned income and prorated over the period of time they are intended to cover.

DISCUSSION

The Appellant is a recipient of SNAP benefits for a one-person AG. After completing her SNAP review in June 2017, the Respondent issued a notice advising that her SNAP benefits would decrease due to an increase in income. The Appellant contested the Respondent's decision and argued that her annuity payments were improperly calculated as income. The Appellant requested that she be back-paid SNAP benefits and that her monthly SNAP benefit allotment be increased.

The Respondent had to prove that the Appellant's annuity payments were properly counted as income when calculating the Appellant's monthly income to determine the amount of her monthly SNAP allotment. The Appellant argued that her medical compensation account should not have been included when determining her monthly income amount. The Respondent testified that the Appellant's medical compensation account was not considered when calculating the Appellant's monthly income amount. The Appellant argued that her other annuity payments were properly reported, were not previously used to determine her income amount, and should not have been included in her income when determining the amount of her 2018 monthly SNAP benefit allotment. The Respondent testified that the annuity payments were not previously included in the Appellant's income calculations but had to be included in determining her 2018 monthly income due to a change in policy.

Pursuant to current policy, the Appellant's recurring annual annuity payments are required to be treated as unearned income and converted into a monthly amount for calculation of the Appellant's monthly income.

Temporary Life Annuity: \$2,577.17
Life Only Annuity + \$ 245.30
\$2,822.47 Total Annual Annuity Amount

Total Annual Annuity Amount \$2,822.47 ÷ 12 months = \$235.21 Pro-rated Monthly Annuity Amount

The \$235.21 pro-rated monthly annuity amount is consistent with the amount of income increase reflected on the June 14, 2018 notice.

Although the Respondent did not provide documentation to support their testimony regarding the amount of the Appellant's Social Security income or deductions reflected on the June 14, 2018 notice, the Appellant did not dispute the amounts. The Respondent testified that it included the Appellant's Social Security income, monthly annuity, and pro-rated monthly annuity amounts to determine the Appellant's monthly income and amount of SNAP benefit allotment.

As policy requires annual annuities to be converted to a pro-rated monthly amount and counted as unearned income, the Respondent was correct to include the \$235.21 pro-rated monthly annuity amount when calculating the Appellant's monthly income and monthly SNAP benefit allotment. Because the Respondent's action to include the pro-rated monthly annuity amount to determine the Appellant's monthly SNAP allotment was in accordance with policy and the Board of Review does not have the authority to modify policy, this Hearing Officer cannot grant relief of the Appellant's request to have her SNAP benefits back-paid or increased.

CONCLUSIONS OF LAW

- 1) When determining SNAP benefit eligibility and amount, annuity payments are counted as unearned income.
- 2) The Appellant receives \$235.21 in pro-rated monthly annuity benefits.
- 3) The Respondent was correct to include the \$235.21 pro-rated monthly annuity amount when calculating the Appellant's monthly income and monthly SNAP benefit allotment.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to decrease the Appellant's Supplemental Nutrition Assistance Program benefits based on income calculations including the Appellant's annual annuity benefits.

ENTERED this 14th day of November 2018.



Tara B. Thompson
State Hearing Officer