



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
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Charleston, West Virginia 25313
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**Jolynn Marra
Interim Inspector General**

October 23, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:18-BOR-2451

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,

Danielle C. Jarrett
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29
cc: Tera Pendleton, Department Representative

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

██████████,

Appellant,

v.

Action Number: 18-BOR-2451

**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 October 16, 2018, on an appeal filed September 25, 2018.

The matter before the Hearing Officer arises from the Respondent's September 21, 2018 determination of Supplemental Nutritional Assistance Program (SNAP) benefit allotment.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case Comments from Appellant's case record, dated September 11, 2018 through September 25, 2018
- D-2 West Virginia Department of Health and Human Services Application for Benefits, signed and date stamped September 4, 2018
- D-3 SNAP Budget printout from the Appellant's case record, dated September 26, 2018
- D-4 SNAP Budget printout from the Appellant's case record, dated September 27, 2018
- D-5 State of ██████████ Department of Health and Human Services of Food Assistance Program Closing letter, dated September 12, 2018
- D-6 Unearned Income printout from the Appellant's case record for August 2018 and Social Security Administration Income Payment letter, dated September 12, 2018
- D-7 Shelter Costs printout from the Appellant's case records for August 2018 and September 2018 Shelter/Rent Receipt, date stamped for September 17, 2018
- D-8 Case Benefit Summary printout from the Appellant's case record, dated September 27, 2018

- D-9 Notice of Eligibility for September 2018, dated September 21, 2018
D-10 Notice of Eligibility for October 2018, dated September 21, 2018

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) On September 4, 2018, the Appellant applied for SNAP benefits in the State of West Virginia at the local Department of Health and Human Resources (DHHR). (Exhibit D-2)
- 2) Prior to applying for benefits in the State of West Virginia, the Appellant received SNAP benefits in the State of [REDACTED]
- 3) On September 11, 2018, the Respondent conducted a telephone interview for the application of SNAP benefits, at which time the Appellant's application was pended for verification of Supplemental Security Income (SSI), closure letter of benefits from the State of [REDACTED] and shelter cost. (Exhibit D-1)
- 4) On September 12, 2018, the Appellant provided verification that he received SNAP benefits from the State of [REDACTED] through August 31, 2018. (Exhibit D-5)
- 5) On September 12, 2018, the Appellant provided verification of SSI income in the amount of \$750 per month, beginning January 2018. (Exhibit D-6)
- 6) On September 17, 2018, the Appellant provided verification that his shelter cost is \$400 per month, which includes heating and cooling costs. (Exhibit D-6)
- 7) The Appellant's Assistance Group (AG) has a total gross income of \$750. (Exhibits D-3 and D-4)
- 8) The Appellant is the only person in his AG.
- 9) The Appellant is responsible for a telephone expense in the amount of \$59 per month and an auto insurance premium in the amount of \$90 per month. (Exhibit D-2)
- 10) The allowable standard utility deduction for individuals who are responsible for payment of a telephone bill, which is not prepaid, is \$74 per month and was applied to the Appellant's SNAP benefit calculation.

- 11) Auto insurance payments are not an allowable deduction for SNAP benefits, per policy.
- 12) The Appellant's SNAP benefits were approved for a one-person AG prorated monthly amount of \$61 for September 4 through September 30, 2018. (Exhibit D-3)
- 13) The Appellant was approved for \$70 in SNAP monthly benefits beginning October 2018. (Exhibit D-10)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) § 4.4.2.B.2 reads that a standard deduction is applied to the total non-excluded income counted for the AG, after application of the Earned Income Disregard. The amount of the Standard Deduction is found in Appendix B. Chapter 4, Appendix B lists the standard deductions applicable to the Appellant for a one-to-three Assistance Group is \$160.

WV IMM § 4.4.2.B.7 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. Exception: The cap on the shelter/utility deduction does not apply when the SNAP AG includes an individual who is elderly or disabled, as defined in Section 13.15.

WV IMM § 4.4.2.C reads that rent, mortgage payments, interest on mortgage payments, and condominium and association fees are considered shelter expenses.

WV IMM § 4.4.2.C.1 explains that SUAs are fixed deductions that are adjusted yearly to allow for fluctuations in utility expenses. These deductions are the Heating/Cooling Standards (HCS), the Non-Heating/Cooling Standard (NHCS), and the One Utility Standard (OUS). The current SUA amounts are found in Appendix B (HCS = \$455, NHCS = \$287, and OUS = \$74). AGs that are not obligated to pay any utility expense are ineligible for the SUA. Eligibility for the SUA must be evaluated at certification, redetermination, and when the AG reports a change in utilities that may affect its eligibility for a deduction. To be eligible for the HCS, the AG must be obligated to pay a heating and cooling expense that is billed on a regular basis.

WV IMM § 4.4.3 reads that when at least one AG member is elderly, which is at least age 60, or disabled, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. There is no gross income test. To determine the SNAP allotment, find the countable income and the number in the AG in Appendix C, Basis of Issuance.

The following steps are determined countable income for cases meeting the eligibility test above.

- Step 1: Combine monthly gross countable earnings and monthly gross profit from self-employment
- Step 2: Deduct 20% of Step 1

- Step 3: Add the gross countable unearned income
- Step 4: Subtract the Standard Deduction (\$164)
- Step 5: Subtract allowable Dependent Care Expenses
- Step 6: Subtract the amount of legally obligated child support actually paid
- Step 7: Subtract the Homeless Shelter Deduction found in Appendix B
- 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: If the shelter/SUA costs are equal to or less than the amount found in step 9, no further computation is needed, the amount from step 8 is countable income. If the shelter/SUA costs are greater than step 9, the amount in excess of 50% is deducted to arrive at the countable income. Elderly/Disabled households are not subject to the shelter/utility cap.
- Step 11: Compare the countable income to the maximum net income in Appendix A for the AG size

To determine the SNAP allotment, find the countable income and the number in the AG in Appendix C, Basis of Issuance.

DISCUSSION

The Supplemental Nutrition Assistance Program is governed by the U.S. Department of Agriculture Food Nutrition Services (USDA FNS). The USDA FNS determined the guidelines for States to use for budgeting purposes, including, but not limited to, allowable deduction amounts and maximum SNAP issuance amounts. Monthly SNAP allotments are determined by an individual's countable income, after all allowable deductions have been applied.

On September 4, 2018, the Appellant applied for SNAP benefits at the local DHHR office. On September 11, 2018, the Respondent completed the SNAP application process via telephone with the Appellant. The Appellant reported that his rent was \$400 per month and included his utilities. He also reported he was responsible for a monthly telephone bill in the amount of \$59 and auto insurance in the amount of \$90 per month. While the Appellant argued that he should receive a deduction for his auto insurance premium, it is not an allowable deduction per policy. After the Appellant provided verification of his rent, SSI, and SNAP closure, SNAP benefits were confirmed by the Respondent for a prorated SNAP amount of \$61 for September 2018, and \$70 beginning October 1, 2018.

The Appellant further argued that in the State of [REDACTED] his actual shelter and utility expenses were used to calculate his SNAP allotment, instead of a utility standard which is utilized in West Virginia. The Appellant contended that if actual expenses were used to calculate his SNAP benefits, he would be entitled to an additional \$116 per month. However, the State of West Virginia utilizes the SUA and because the Appellant is only responsible for a telephone bill, his deduction is limited to \$74. The Appellant did not dispute the amount of income or shelter expense on record.

The evidence entered into the record regarding the deductions used in the calculation of the Appellant's monthly SNAP benefits established that the Appellant had a monthly shelter expense of \$400, utility standard of \$74 for telephone, and a standard deduction of \$160 for September 2018. Per policy, an AG size of one-to-three household members is entitled to a standard deduction of \$160 from October 2017 to September 2018, and \$164 per month beginning on October 1, 2018. There were no other allowable deductions established at the hearing.

The steps to determine the Appellant's monthly prorated SNAP allotment for September 2018 are found in policy as follows: \$750 total income minus \$164 standard deduction equals \$586. The total shelter and SUA amount of \$474 (\$400 rent plus \$74 utility standard) is compared to 50% of the remaining income (\$586 divided by 2 equals \$293). Because the total shelter/ SUA costs for the Appellant exceed 50% of the remaining income, he is entitled to the shelter/SUA deduction that is in excess of the amount of \$181 (\$474 minus \$293). The Appellant's total countable income for SNAP is \$405 which is compared to the coupon allotment chart found in policy for an AG of 1. The Appellant is entitled to receive \$68 in SNAP benefit allotment with a prorated amount for \$61. The Appellant's SNAP benefit entitlement for September 2018 is prorated from the date of application, September 4, 2018.

The steps to determine the Appellant's monthly SNAP benefits beginning in October 2018 are found in policy as follows: \$750 total income minus \$160 standard deduction equals \$590. The total shelter and SUA amount of \$474 (\$400 rent plus \$74 utility standard) is compared to 50% of the remaining income (\$590 divided by 2 equals \$295). Because the total shelter/ SUA costs for the Appellant exceed 50% of the remaining income, he is entitled to the shelter/SUA deduction that is in excess of the amount of \$179 (\$474 minus 293). The Appellant's total countable income for SNAP is \$411 which is compared to the coupon allotment chart found in policy for an AG of 1. The Appellant is entitled to receive \$70 in SNAP benefit allotment for October 2018 and ongoing.

CONCLUSIONS OF LAW

- 1) Monthly SNAP allotments are determined by the countable income of the AG, after all allowable deductions have been applied.
- 2) The Appellant's AG has a total gross income of \$750 per month.
- 3) The Appellant is entitled to receive a standard utility allowance of \$74 per month.
- 4) The Appellant is entitled to receive a rental deduction in the amount of \$400 per month.
- 5) The Appellant is entitled to receive a standard deduction of \$160 for September 2018 and a standard deduction of \$164 beginning October 1, 2018.
- 6) The Respondent correctly calculated the Appellant's monthly SNAP allotment.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's determination of the Appellant's monthly SNAP allotment.

ENTERED this ____ day of 2018.

Danielle C. Jarrett
State Hearing Officer