



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

**Bill J. Crouch  
Cabinet Secretary**

**BOARD OF REVIEW  
Berkeley County DHHR  
PO Box 1247  
Martinsburg, WV 25402**

**Jolynn Marra  
Interim Inspector General**

February 28, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 19-BOR-1118

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: Rachel Hartman, BCF, [REDACTED] Co. DHHR

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

[REDACTED],

**Appellant,**

v.

**ACTION NO: 19-BOR-1118**

**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' Common Chapters Manual. This fair hearing was convened on February 21, 2019, on an appeal filed January 22, 2019.

The matter before the Hearing Officer is whether the Respondent correctly included the Appellant's son and his earned income in the determination of her Supplemental Nutrition Assistance Program (SNAP) eligibility.

At the hearing, the Respondent appeared by Rachel Hartman, Economic Services Supervisor. Observing but not participating was Lori Jackson, Family Support Supervisor. The Appellant appeared *pro se*. Appearing as witness for the Appellant was [REDACTED]. All witnesses were sworn, and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Copy of the Case Comments from the Appellant's eRAPIDS case from December 28, 2018 to January 18, 2019
- D-2 Copy of [REDACTED] paystubs dated December 7, 14, 21 and 28, 2018
- D-3 Copy of the Appellant's SNAP Budget screen from her eRAPIDS case for February 2019
- D-4 Notice (EDC1) of SNAP closure, dated January 15, 2019
- D-5 West Virginia Income Maintenance Manual (WV IMM) Chapter 3, §3.2.1.A.4

**Appellants' 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's Assistance Group (AG) included herself and her son, [REDACTED], who is under the age of 22 years and lives in the same household as the Appellant.
- 3) On December 28, 2018, the Appellant reported [REDACTED] was employed.
- 4) [REDACTED] pays from December 14, 21 and 28, 2018 were used to determine an average monthly income of \$2,241.45. (Exhibits D-1 and D-3)
- 5) The Appellant receives Supplemental Security Income (SSI) of \$750 per month. (Exhibits D-1 and D-2)
- 6) The total Gross Income of the Appellant's AG was calculated as \$2,991.45. The following deductions and disregards were used to calculate Adjusted Net Income: Earned Income Deduction of \$448.29, Standard Deduction of \$164, Shelter/Utility Deduction of \$500. (Exhibit D-3)
- 7) The Appellant's utility costs are included in her shelter payment of \$500 per month.
- 8) The Appellant's Net Adjusted Income was calculated to be \$2,379.16 per month. (Exhibit D-3)
- 9) The Appellant's AG was over the income limit of \$1,372.00.
- 10) The Respondent sent notification of the SNAP closure to the Appellant on January 15, 2019, (Exhibit D-4)

**APPLICABLE POLICY**

WV IMM, Chapter 3, §3.2.1.A.4, requires natural or adopted children and stepchildren who are under 22 years of age and who live with a parent be in the same AG as that parent.

WV IMM, Chapter 3, §3.2.2, states that the Income Group (IG) includes all AG members and all individuals who live with the AG and would otherwise be included in the AG if not ineligible, disqualified, or excluded by law. This includes ineligible non-citizens, those excluded by law, disqualified due to an IPV or for trafficking SNAP for a controlled substance, and those who fail to meet the enumeration requirement. See Section 4.4 to determine how to count the income and deductions. Ineligible students and individuals who are ineligible due to receipt in another state are not included in the IG.

WV IMM, Chapter 3, §3.2.3, instructs that the income limit for the number of eligible individuals in the AG is used to determine eligibility and the amount of the benefit.

WV IMM, Chapter 4, §4.4.1 explains that it is necessary to determine a monthly amount of income to count for the eligibility period for SNAP benefits. For all cases, the worker must determine the amount of income that can be reasonably anticipated for the assistance group (AG).

WV IMM, Chapter 4, §4.4.1.E.2 states that when a client reports the beginning or ending of a source of income and the client is not expected to receive a full month's income, income from this source must not be converted to a monthly amount. Instead, the Worker must use the actual amount of income ... If the income from the source is beginning, the income is added as actual amounts for each month until the client would receive a full month of income from the new source, at which time the income is converted to a monthly amount.

WV IMM, Chapter 4, §4.4.2, explains that certain items may be allowed as income deductions to arrive at an AG's countable income (even if the payment is made from assets). To receive a deduction, the expense must:

- Not be an educational expense;
- Be billed or be due during the certification period in which the deduction is claimed;
- Be obligated to be met by the AG's own resources; and
- Be owed to an individual not included in the AG to receive a deduction.

WV IMM, Chapter 4, §4.4.2.C.1 allows a Standard Utility Allowance (SUA) deduction for AGs that are obligated to pay from their resources a utility expense that is billed separately from their shelter expenses. When the heating or cooling costs are included in the shelter obligation and are not billed separately, no Heating/Cooling Standard (HCS) can be used. AGs that are not obligated to pay any utility expense are ineligible for the SUA, even if other residents pay utility expenses. Items not considered utilities include, but are not limited to:

- Cable/digital/satellite television service
- Internet service
- Utility deposits
- Pre-paid cell phones

WV IMM, Chapter 4, §4.4.3.B, sets forth the steps used to determine countable income.

The income limit for an AG of 2 for SNAP eligibility equals \$1,372. (WV IMM, Chapter 4, Appendix A)

## **DISCUSSION**

The Appellant and her son [REDACTED] who is under the age of 22, were receiving SNAP benefits. The Appellant reported in late December 2018 that [REDACTED] had begun employment. [REDACTED] December 7, 14, 21 and 28 paystubs were submitted for verification of his income. The Appellant receives SSI of \$750 per month. The department worker calculated the AG's Net Adjusted Income to equal \$2,379.16, which was over the income limit of \$1,372 for SNAP eligibility. On January 15, 2019, the Respondent sent notification of the SNAP benefit closure to the Appellant. The Appellant appealed the SNAP closure averring that [REDACTED] income should not be counted in the calculation of her SNAP benefits.

Both the Appellant and her witness, [REDACTED], who also lives in the household with the Appellant, testified that although [REDACTED] lives in the household, he lives "downstairs". They testified that [REDACTED] does not contribute to the household expenses and because he lives downstairs, his income should not count towards the Appellant's AG. The Appellant testified that "He [REDACTED] don't [sic] live with me, he lives with [REDACTED]". Mr. [REDACTED] testified that "These people don't own this house, I do". Therefore, they conclude that [REDACTED] should not be considered as "living" with the Appellant. Although this is a unique argument, policy clearly mandates that any child who is under the age of 22 and lives in the same household as a parent, be included in that parent's SNAP AG. Thus, [REDACTED] who is under the age of 22 and living in the same household as the Appellant, must be included in her SNAP AG. Likewise, [REDACTED] income must also be included in determining the Appellant's SNAP eligibility.

Although not at issue, the income disregards and deductions were briefly reviewed and discussed. The SNAP calculations included an earned income deduction, a standard deduction, and shelter cost deduction. Mr. [REDACTED] testified that the Appellant pays \$500 per month in rent which includes the utilities. There was some additional testimony regarding the medical expense deduction and a One Utility Standard (OUS) deduction. However, the testimony provided by the Appellant and Mr. [REDACTED] was deemed to be vague, unconvincing and suspect. Therefore, not much weight was given to their testimony regarding these two possible deductions.

The Respondent showed by a preponderance of evidence that it correctly determined the Appellant ineligible for SNAP benefits.

## **CONCLUSIONS OF LAW**

1. Policy requires natural or adopted children and stepchildren who are under 22 years of age who live with a parent be included in the same AG as that parent.
2. The monthly income of all the AG members must be used for SNAP eligibility determinations.
3. The Appellant's son [REDACTED] is under the age of 22 years, lives with the Appellant, and is therefore required to be in her SNAP AG.

4. [REDACTED] earned income was correctly included in the Appellant's SNAP eligibility determination.
5. The Appellant's Adjusted Gross Income amount equaled \$2,379.16, which is over the allowable income limit for a SNAP AG of 2 of \$1,372.
6. The Respondent correctly determined that the Appellant was ineligible for SNAP benefits.

### **DECISION**

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

**ENTERED this 28<sup>th</sup> day of February 2019.**

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Lori Woodward, State Hearing Official