



**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

April 10, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 19-BOR-1433

Dear Ms. [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,

Tara B. Thompson
State Hearing Officer
State Board of Review

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

cc: David Griffin, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 19-BOR-1433

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on April 9, 2019, on an appeal filed March 14, 2019.

The matter before the Hearing Officer arises from the March 20, 2019 determination by the Respondent to decrease the Appellant's Supplemental Nutrition Assistance Program (SNAP) monthly benefit allotment.

At the hearing, the Respondent appeared by David Griffin. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 DHHR Notice of Decision, dates February 4, 2019
- D-2 DHHR Notice, dated March 6, 2019
- D-3 DHHR Notice, dated March 6, 2019
- D-4 eRAPIDS AG Composition Details
- D-5 eRAPIDS SNAP Budget, begin date April 1, 2019

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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant received monthly SNAP benefits for herself and her adult son, [REDACTED] (Exhibit D-3).
- 2) [REDACTED] resides with the Appellant and receives mail at the Appellant's home.
- 3) On February 4, 2019, the Respondent issued a notice to the Appellant advising that [REDACTED] was required to register with WorkForce West Virginia (WorkForce) by March 3, 2019 (Exhibit D-1).
- 4) [REDACTED] did not register with WorkForce.
- 5) On March 6, 2019, the Respondent issued a notice to [REDACTED] advising that a first SNAP disqualification penalty had been applied due to [REDACTED] failing to register with WorkForce by the deadline. The notice advised that [REDACTED] would be ineligible for SNAP benefits for three months or until compliance with the WorkForce registration requirement, whichever is longer (Exhibit D-2).
- 6) On March 6, 2019, the Respondent issued a notice advising the Appellant that her monthly SNAP allotment would decrease from \$181 to \$20, effective April 1, 2019, due to a decrease in the number of individuals receiving the SNAP benefit (Exhibit D-3).
- 7) The Appellant's household consisted of the Appellant, [REDACTED], and the Appellant's adult daughter, [REDACTED] (Exhibit D-4).
- 8) The Appellant is the only member of her household who is eligible for SNAP benefits (Exhibits D-3 through D-5).
- 9) The Appellant's income group consisted of the Appellant and [REDACTED] (Exhibit D-4).
- 10) The Appellant's net adjusted income for a one-person AG was \$571.62 (Exhibit D-5).
- 11) The Appellant's monthly SNAP allotment entitlement for a one-person AG is \$20 (Exhibit D-5).

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) §1.2.4 provides in part:

The client's responsibility is to provide complete and accurate information about her circumstances so that the Worker is able to make a correct determination about her benefit eligibility.

WVIMM §1.4.12.A provides in part:

Individuals who have not complied with a SNAP work requirement may be ineligible for a specified time.

WVIMM §3.2.1.A provides in part:

The SNAP AG must include all eligible individuals who live together and purchase food and prepare meals together ...

When an AG member is absent or is expected to be absent from the home for a full calendar month, he is no longer eligible to be included in the AG, and must be removed after advanced notice.

WVIMM §3.2.2 provides in part:

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 ...

WVIMM §4.4.3.C provides in part:

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

WVIMM Chapter 4, Appendix C.2 provides in part:

For a one-person AG with a monthly net income of \$571, the SNAP monthly allotment amount is \$20.

WVIMM §14.5.1.B provides in part:

A client who fails to register with WorkForce is subject to a first offense penalty removal from the AG for at least three months or until he meets an exemption.

DISCUSSION

The Appellant was receiving SNAP benefits for a two-person AG. Because the Appellant's son failed to register for WorkForce, the Respondent removed him from the Appellant's AG and decreased the Appellant's monthly SNAP benefit allotment. The Appellant contested the amount of her monthly SNAP benefit allotment and the use of her son's income when calculating the SNAP benefit allotment amount. The Appellant did not contest the amount of her income, the amount of her son's income, or amount of deductions applied to determine the amount of her allotment. The Appellant did not contest that her son, [REDACTED], failed to register for WorkForce or that a penalty should have been applied.

To demonstrate that the amount of the Appellant's monthly SNAP benefit allotment was correctly determined, the Respondent had to prove by a preponderance of evidence that [REDACTED] income should have been included in calculations of the Appellant's monthly SNAP benefit allotment and that the decrease in the Appellant's monthly SNAP benefit allotment was due to a decrease in the number of persons receiving the benefit. The Appellant argued that her son was an adult, whom she saw approximately 11 times since February 2019, and that his income should not have been included in her SNAP benefit allotment calculations. The Appellant testified that she had not reported to the Respondent at any previous point that [REDACTED] was no longer living in her home. Further, the Appellant was unable to testify during the hearing whether [REDACTED] was currently living in her home and testified that she would have to talk to him about that. During the hearing, the Appellant affirmed that [REDACTED] receives mail at her home.

The Appellant has a responsibility to report changes in her household composition to the Respondent so that the Respondent can make a correct determination about her benefit eligibility. Policy provides that when an AG member is absent or expected to be absent from the home for a full calendar month, that individual is no longer eligible for inclusion in the AG. As the Appellant did not report that her son was no longer living in her home, policy required that [REDACTED] be included in the Appellant's AG. Pursuant to policy, [REDACTED] was required to register with WorkForce and because he failed to comply with the registration requirement, the Respondent was required to apply a first-offense three-month SNAP ineligibility penalty.

The Appellant testified that because [REDACTED] was ineligible to be included in the AG due to the penalty that his income should not have been counted to determine the amount of her monthly SNAP benefit allotment. Policy requires that the income group (IG) include all individuals who live with the AG and would otherwise be included in the AG if not ineligible. Because [REDACTED] would have been otherwise eligible to be included in the AG if he were not ineligible due to the work requirement penalty, his income must be included in the Appellant's IG. Evidence reflected a third member of the Appellant's household, [REDACTED] was ineligible to be included in the Appellant's AG or her IG. The Appellant did not contest the Respondent's evidence that [REDACTED] should not be included in the AG when determining the amount of her monthly SNAP benefit allotment.

To determine the amount of monthly SNAP benefit allotment, the Respondent had to determine the countable income and the number of individuals in the AG. The amount of earned and unearned income and deductions applied to the SNAP benefit allotment calculation were not contested. As the Appellant was the only member of her household who was eligible for SNAP benefit allotment, the Respondent assessed her SNAP benefit allotment amount based on a one-person AG. For a one-person AG with a monthly net income of \$571, the SNAP monthly allotment amount is \$20.

CONCLUSIONS OF LAW

- 1) [REDACTED] is a member of the Appellant's household and was required to register with WorkForce West Virginia (WorkForce).

- 2) [REDACTED] failed to register with WorkForce by the deadline.
- 3) Because [REDACTED] failed to comply with the work registration requirement, a first-offense three-month SNAP ineligibility penalty was applied.
- 4) Because a first-offense three-month SNAP ineligibility penalty was applied to [REDACTED], the number of persons receiving SNAP benefits in the Appellant's AG decreased.
- 5) Policy requires [REDACTED] to be included in the Appellant's Income Group (IG) because he lives with the Appellant and would otherwise be included in the Assistance Group (AG) if he were not ineligible due to a work registration penalty.
- 6) The Appellant was the only member of her household who was eligible for SNAP benefits.
- 7) The Appellant's monthly net income was \$571.
- 8) Pursuant to policy, for a one-person AG with a monthly net income of \$571, the SNAP monthly allotment is \$20.
- 9) The Respondent correctly included [REDACTED] income to calculate the Appellant's monthly SNAP benefit allotment.
- 10) The Respondent correctly decreased the amount of the Appellant's monthly SNAP benefit allotment due to a decrease in the number of persons receiving the benefit.

DECISION

It is the decision of this State Hearing Officer to **UPHOLD** the Respondent's decision to decrease the amount of the Appellant's monthly SNAP benefit allotment due to a decrease in the number of persons receiving the benefit.

ENTERED this 10th day of April 2019.

Tara B. Thompson
State Hearing Officer