



**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**

April 12, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:19-BOR-1452

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 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: Debbie Fields, Department Representative

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

████████████████████,

Appellant,

v.

Action Number: 19-BOR-1452

**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 April 3, 2019, on an appeal filed March 19, 2019.

The matter before the Hearing Officer arises from the Respondent's January 28, 2019 decision to decrease the Appellant's Supplemental Nutritional Assistance Program (SNAP) benefit allotment.

At the hearing, the Respondent appeared by Debbie Fields, Economic Service Supervisor, WVDHHR. 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 January 28, 2019
- D-2 eRAPIDS computer system screenshot printout of SNAP Budget, dated January 25, 2019
- D-3 West Virginia Income Maintenance Manual (WV IMM) § 4.4.1; Chapter 10 – Appendix A: RDSI/SSI Increase 2019; § 10.A.3; and Appendix B: Special Procedures for RSDI/SSI COLA Increases

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 is a recipient of SNAP benefits for a three-person Assistance Group (AG).
- 2) The Appellant's husband is a recipient of Supplemental Security Income (SSI).
- 3) In January 2019, all SSI recipients received a Cost-of-Living Adjustment (COLA), an increase in the amount of their SSI monthly benefit amount. The Appellant's husband received an increase in SSI from \$750 to \$771 per month. (Exhibit D-2)
- 4) As a result, in the increase in household income the Appellant's SNAP benefits decreased from \$474 to \$464 per month. (Exhibit D-1)
- 5) On January 28, 2019, the Respondent notified the Appellant of the reduction in her monthly SNAP allotment due to household income increasing. (Exhibit D-1)
- 6) The Appellant and her husband are responsible for a monthly mortgage expense of \$286.49, property taxes of \$13.43, and home owners insurance in the amount of \$54.30, totaling \$354.22 in monthly shelter expenses and are eligible for a shelter deduction. (Exhibit D-2)
- 7) The Appellant is responsible for heating and/or cooling expenses and are eligible for a Standard Utility Allowance (SUA) in the amount of \$421. (Exhibit D-2)
- 8) The Appellant is entitled to a standard deduction in the amount of \$164. (Exhibit D-2)
- 9) The Appellant's Net Adjusted Income, after the application of the applicable deductions is \$135.28. (Exhibit D-2)

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 3, Appendix B lists the standard deductions applicable to the Appellant for a one-to-three Assistance Group is \$164.

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 (\$771)
- 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 (\$464).

WV IMM Chapter 10: Appendix A: RSDI/SSI Increases 2019 reads in January 2019, SSI and Retirement, Survivors, and Disability Insurance (RSDI) recipients received a COLA of 2.8%. The new monthly maximum federal SSI payment levels for 2019 are: Single - \$771 and Couple - \$1,157.

WV IMM § 10.A.1 explains the annual COLA Mass Change occurred over the weekend of January 25 – January 26, 2019, for most AGs in the eligibility system that have RSDI and/or SSI entered or Medicare enrollment. Manual updates must be completed by the February deadline, effective March 2019. (emphasis added)

DISCUSSION

The Supplemental Nutrition Assistance Program is governed by the U.S. Department of Agriculture Food Nutrition Services (USDA FNS). The USDA FNS determines 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 March 13, 2019, the Appellant contacted the local Department of Health and Human Resources (DHHR) office with concerns regarding her SNAP allotment decreasing. The Respondent testified at that time, the SNAP budget calculations were thoroughly explained to the Appellant. The Respondent testified she explained to the Appellant that her household may be eligible for a medical deduction for transportation reimbursement. The Appellant testified that they received transportation reimbursement through the State's Non-Emergency Medical Transportation (NEMT) Program.

On March 19, 2019, the Appellant contacted the DHHR via telephone and stated she spoke to a "Mr. Johnson" and he indicated the budget calculations were incorrect.

The Respondent testified that in January 2019, all SSI recipients received a COLA increase in the amount of their SSI monthly benefit. The Appellant's husband received an increase in SSI from \$750 to \$771 per month. The Respondent testified the Department received the COLA notification through the State's data exchange system and was acted upon. The Respondent testified as a result in the increase in household income, the Appellant's SNAP allotment decreased from \$474 per month to \$464 per month for an AG size of three (3).

Evidence submitted by the Respondent established the Appellant is responsible for a monthly mortgage expense of \$286.49, property taxes of \$13.43, and home owners insurance in the amount of \$54.30, totaling \$354.22 in monthly shelter expenses. The Appellant was eligible for a shelter deduction. Because the Appellant was responsible for a heating/cooling expense that is billed on a regular basis she was eligible for a HCS deduction of \$421. Policy indicates SUAs are fixed deductions that are adjusted yearly to allow for fluctuations in utility expenses. The Appellant testified she did not have medical expenses over \$35 and she did not pay dependent care costs or support payment. The Appellant is not eligible for a homeless deduction, dependent care deduction, support payments deduction, or excess medical expenses deduction. There were no other allowable deductions established at the hearing.

The steps to determine the Appellant's monthly SNAP allotment are found in policy as follows: \$771 total SSI income minus \$164 standard deduction equals \$607. The total shelter and SUA amount of \$775.22 (\$354.22 shelter cost plus \$421 HCS) is compared to 50% of the remaining

income (\$607 divided by 2 equals \$303.50). Because the total shelter/ SUA costs for the Appellant exceeds 50% of the household's remaining income, she is entitled to the shelter/SUA deduction that is in excess of the amount of \$471.72 (\$775.22 minus \$303.50). The Appellant's total countable income for SNAP is \$135.28 which is compared to the coupon allotment chart found in policy for an AG of three (3). The Appellant's AG is entitled to receive \$464 in monthly SNAP benefits.

The Appellant did not dispute that her husband's SSI monthly amount increased but contended that she should receive additional SNAP benefits because her household expenses exceeded her total household income. The Appellant testified that after subtracting monthly expenses the household was left with a negative balance of \$33. While the Appellant's expenses certainly may exceed her household income, the Supplemental Nutrition Assistance Program is meant to supplement the nutritional needs of participants and there are no exceptions in policy allowing additional benefits for households whose expenses exceed their income.

CONCLUSIONS OF LAW

- 1) Per policy the Appellant is entitled to a standard deduction, a shelter deduction and a standard utility deduction, resulting in a net adjusted income of \$135.28.
- 2) The Appellant's Net Adjusted Income is compared to the issuance chart for a three-person AG.
- 3) The Appellant is eligible for \$464 in SNAP benefits per month beginning March 1, 2019.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's to reduce the Appellant's monthly SNAP allotment effective March 1, 2019.

ENTERED this ____ day of April 2019.

Danielle C. Jarrett
State Hearing Officer