



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
Raleigh County District
407 Neville Street
Beckley, WV 25801**

**Jolynn Marra
Interim Inspector General**

August 7, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.:19-BOR-2053

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Margaret Fain, [REDACTED] County DHHR

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

[REDACTED],

Appellant,

v.

Action Number: 19-BOR-2053

**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 August 6, 2019, on an appeal filed July 15, 2019.

The matter before the Hearing Officer arises from the Respondent's determination of the Appellant's monthly Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Darlene Watkins, Economic Service Worker. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

None

Appellant's Exhibits:

- A-1 Hearing Summary and Submission of Evidence
- A-2 Receipt for Eyeglasses dated October 19, 2018 and Appointment Reminder from [REDACTED]
- A-3 Tire Quote from [REDACTED] dated July 22, 2019
- A-4 Notice of Medicaid Approval dated July 3, 2019, Case Number 1028824416
- A-5 Notice of SNAP Approval dated July 10, 2019, Case Number 1015831915

- A-6 Confirmation of Online Account with Social Security Administration dated June 11, 2019 and Notice of Supplemental Security Income (SSI) Appointment
- A-7 Receipts from [REDACTED]
- A-8 Receipts from Purchase of Food

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 receives SNAP benefits for herself and her son.
- 2) The Appellant completed a SNAP eligibility review on July 9, 2019.
- 3) The Respondent determined the Appellant's monthly earned income as \$1,283.75.
- 4) The Respondent notified the Appellant that her monthly SNAP allotment, effective August 1, 2019, would be \$94 (Exhibit A-5).
- 5) The Appellant's earned income is the household's only income.
- 6) The Appellant does not pay a shelter expense, but is responsible for her home's heating costs.
- 7) The Appellant is not over age sixty (60) and is not disabled.
- 8) The Appellant's son has filed a disability claim with the Social Security Administration, but a disability determination has not been made (Exhibit A-6).

APPLICABLE POLICY

West Virginia Income Maintenance Manual §4.4.1 states that SNAP eligibility is determined and benefits are issued on a monthly basis, therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the assistance group (AG). Income is projected; past income is used only when it reflects the income the client reasonably expects to receive during the certification period.

Use past income only when both of the following conditions exist for a source of income:

- Income from the source is expected to continue into the certification period; and
- The amount of income from the same source is expected to be more or less the same. For these purposes, the same source of earned income means income from the same employer, not just the continued receipt of earned income.

The Worker must follow the steps below for each old income source.

Step 1: Determine the amount of income received by all persons in the Income Group (IG) in the 30 calendar days prior to the application/redetermination date, or interview date when the interview is completed on a different day than when the application is received. The appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of application/redetermination. However, if the interview is completed on a different day than when the date the application/redetermination is received, the 30-day look-back period could begin the day before the interview date. The income from this 30-day period is the minimum amount of income that must be considered. When, in the Worker's judgment, future income may be more reasonably anticipated by considering the income from a longer period of time, the Worker considers income for the time period he determines to be reasonable. Whether the Worker considers income from the prior 30 days, or from a longer period of time, all of the income received from that source during that time period must be considered. All pay periods during the appropriate time period must be considered and must be consecutive. If the client provided sufficient income verification on the date the application/redetermination is received, then additional verification is not required at interview.

After the Worker determines all of the income sources that are to be considered for use, the Worker determines the amount of monthly income, based on the frequency of receipt and whether the amount is stable or fluctuates. Conversion of income to a monthly amount is accomplished by multiplying an actual or average amount as follows:

- Weekly amount x 4.3
- Biweekly amount (every two weeks) x 2.15
- Semi-monthly amount (twice/month) x 2

West Virginia Income Maintenance Manual §4.4.2 the following are the only allowable disregards and deductions from income for the SNAP.

- Earned Income Disregard - Twenty percent (20%) of gross countable earned income, including gross profit from self-employment, is disregarded.
- Standard Deduction - A Standard Deduction is applied to the total non-excluded income counted for the AG, after application of the Earned Income Disregard.
- Dependent Care Deduction - A deduction is allowed for payment for the care of a child or other dependent, when the expense is necessary for an IG member to accept, continue or seek employment or training, or pursue education that is preparatory to employment.
- Child Support Deduction - A deduction is allowed for legally obligated child support actually paid by an AG member or disqualified individual to an individual not residing in the same household.
- Homeless Shelter Standard Deduction - This deduction may be applied when a homeless AG incurs any shelter/utility expenses for the month.
- Medical Expenses - Medical expenses in excess of \$35 must be allowed as a medical deduction for AG members who are elderly, which is at least age 60, or disabled

- Shelter/Utility Deduction - 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 SUA. If the shelter costs/SUA exceed 50% of the remaining income, the amount in excess of 50% is deducted.
 - AGs that are obligated to pay a heating or cooling expense that is billed on a regular basis are eligible for the HCS.

West Virginia Income Maintenance Manual §4.4.3 states when no AG member is elderly or disabled, the gross income must be equal to, or less than, the gross income limit in Appendix A. If so, the AG qualifies for the disregards and deductions. If the gross income exceeds the amount in Appendix A, the AG is ineligible. 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.

The following steps are used to determine countable income for cases meeting the eligibility tests 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 Standard Deduction found in Appendix B.
- Step 8: Subtract allowable medical expenses in excess of \$35 for elderly/disabled AG members
- Step 9: Calculate 50% of the remaining income and compare it to the actual monthly shelter/SUA amount. The Heating/Cooling SUA is \$421.
- 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 the 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 Chapter 4 Appendix C, Basis of Issuance.

DISCUSSION

Policy stipulates that monthly SNAP allotments are determined by an individual's countable income, after all allowable deductions have been applied.

The Appellant's monthly SNAP allotment was reduced from \$219 to \$94 when her earned income was updated during her July 2019 eligibility review. The Appellant contested the Respondent's

calculation of her monthly earned income, and requested that her out-of-pocket medical expenses and vehicle expenses be used as deductions.

Pursuant to policy, a 30-day period of consideration is established and all income received during that period of consideration is averaged and then converted into a monthly amount based upon the frequency of pay. The Respondent used the following paystubs to determine the Appellant's monthly income:

June 1, 2019 \$347.81 +

June 8, 2019 \$328.13 +

June 15, 2019 \$290.75 +

June 22, 2019 \$227.50 = \$1,194.19 divided by 4 = \$298.54 multiplied by 4.3 = \$1,283.75

The Respondent correctly calculated the Appellant's gross monthly earned income based upon the paystubs that were provided with her eligibility review.

Policy allows specific deductions from income to determine a household's monthly SNAP allotment. Policy does not allow vehicle expenses as a deduction from income. Additionally, only AG members who are aged 60 or older, or who have been determined disabled, may receive a deduction for out-of-pocket medical expenses.

Using the steps found in policy, the Appellant's monthly SNAP allotment is:

\$1,283.75 minus 20% earned income deduction (\$256.75) equals \$1,027

\$1,027 minus the standard deduction (\$164) equals \$863

Fifty percent (50%) of the remaining income (\$863 divided by 2 = 431.50) is compared to the shelter and/or SUA (Heating/Cooling SUA is \$421).

If the shelter and/or SUA is less than 50% of the remaining income, no further steps are taken and the remaining income (\$863) is the AG's net income.

The AG's net income is compared to the issuance table in policy for the size of the assistance group to determine the monthly allotment amount. The monthly SNAP allotment for a 2-person AG with a net income of \$863 is \$94. The Respondent correctly calculated the Appellant's monthly SNAP allotment.

CONCLUSIONS OF LAW

- 1) Monthly SNAP allotments are determined by an individual's countable income, after all allowable deductions have been applied.
- 2) The Appellant's monthly countable income, after applying the income deductions allowed by policy, is \$863.

- 3) The Appellant's countable monthly income is compared to the issuance chart for the size of her assistance group.
- 4) The Appellant and her son are eligible for \$94 in SNAP benefits each month.
- 5) 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 Supplemental Nutrition Assistance Program benefits.

ENTERED this 7th day of August 2019.

**Kristi Logan
State Hearing Officer**