



**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**

January 23, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.:18-BOR-2897

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: Pamela Ellison, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 18-BOR-2897

**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 January 17, 2019, on an appeal filed on December 6, 2018.

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

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

Department's Exhibits:

- D-1 SNAP Application dated October 26, 2018
- D-2 Case Comments from April 2018 through December 2018
- D-3 Verification Checklist dated November 9, 2018, Electric, Water, and Satellite Television Bills, and Notice of Foreclosure
- D-4 Statements from ██████████ dated November 12, 2018 and November 19, 2018
- D-5 West Virginia Income Maintenance Manual §§4.4.2.B.7 and 21.C.1.3.2
- D-6 West Virginia Income Maintenance Manual §4.4.1
- D-7 SNAP Work Requirement Penalty Summary
- D-8 West Virginia Income Maintenance Manual §§14.2 and 3.2.1.B.8
- D-9 SNAP Budget Screen Prints for October, November, December and January
- D-10 Notices of Decision dated November 26, 2018

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 applied for SNAP benefits on October 26, 2018 (Exhibit D-1).
- 2) A telephone interview was conducted with the Appellant on November 9, 2018.
- 3) The Appellant reported receiving assistance from her son and daughter with her household bills (Exhibit D-2).
- 4) The Respondent requested the Appellant provide verification of the money she received from her children (Exhibits D-2 and D-3).
- 5) The Appellant submitted a statement from her daughter, [REDACTED], on November 13, 2018, which reads in pertinent part “[the Appellant] has been getting help from us. We have purchased food, car, car insurance, water, elec., etc.” (Exhibit D-4).
- 6) On November 19, 2018, Pamela Ellison documented that in a conversation with the Appellant, the Appellant who reported that her son, [REDACTED] pays her car payment of \$545 monthly and that Ms. [REDACTED] gives her approximately \$600 a month (Exhibit D-3).
- 7) The Respondent requested that the Appellant provide a statement from Ms. [REDACTED] verifying the amount of money she is given each month.
- 8) A statement from [REDACTED] was submitted to the Respondent on November 19, 2018, which reads in pertinent part “I help [the Appellant] with her bills. Anytime something is due and she tells me I pay it. She has no income right now so the only money she receives is from me and my brother” (Exhibit D-4).
- 9) The Respondent used the \$1,145 that the Appellant receives from her children each month in determining her monthly SNAP allotment (Exhibit D-9).
- 10) The Respondent allowed a \$329.66 shelter deduction and the One Utility Standard (OUS) deduction from this income (Exhibit D-9).
- 11) The Appellant’s prorated SNAP allotment for October 2018 was \$0 (Exhibit D-9).
- 12) The Appellant’s SNAP allotment for November 2018 was \$15 (Exhibit D-9).

- 13) The Appellant's SNAP allotment for December 2018 and ongoing was \$58. (Exhibits D-7 and D-9).

APPLICABLE POLICY

West Virginia Income Maintenance Manual §4.3.1 Chart 1 §11 states that cash contributions from individuals that are not for shared household expenses are counted as unearned income for SNAP.

West Virginia Income Maintenance Manual §4.4.2 states certain items may be allowed as income deductions to arrive at an assistance group's (AG) countable income for SNAP, (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
- Be owed to an individual not included in the AG to receive a deduction

West Virginia Income Maintenance Manual §4.4.2.B.7 states a shelter expense is allowed only if the AG is obligated to pay with the AG's excluded or non-excluded resources. There is no time limit during the certification period for deciding when an AG is no longer allowed a deduction for the bill. The AG is no longer allowed the deduction when the expense is no longer billed or is no longer due. An expense does not have to be paid to be a deduction.

West Virginia Income Maintenance Manual §4.4.2.C.1 Standard Utility Allowances (SUA) are fixed deductions that are adjusted yearly to allow for fluctuations in utility expenses. These deductions are the Heating/Cooling Standard (HCS), the Non-Heating/Cooling Standard (NHCS), and the One Utility Standard (OUS).

AGs that are obligated to pay from their resources a utility expense that is billed separately from their shelter expenses are eligible for an SUA deduction. AGs that are not obligated to pay any utility expense are ineligible for the SUA, even if other residents pay utility expenses. To be eligible for the HCS, the AG must meet the following criteria.

AGs that are obligated to pay a heating or cooling expense that is billed on a regular basis are eligible for the HCS. There does not have to be a monthly bill for heating or cooling throughout the year, just a regular bill for heating or cooling during the appropriate season. To qualify for the HCS, the heating or cooling expenses must be for the primary source of heating or cooling.

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
- Step 9: Calculate 50% of the remaining income and compare it to the actual monthly shelter/SUA amount. The Heating/Cooling SUA is \$462.
- 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 Appendix C, Basis of Issuance.

DISCUSSION

Pursuant to policy, monthly SNAP allotments are determined by an individual's countable income, after all allowable deductions have been applied.

The Respondent contended that the Appellant received a total of \$1,145 monthly in contributions from her children, which was counted as unearned income. The Appellant was allowed a shelter deduction of \$329.66 from this amount, and the OUS of \$74. The Appellant's monthly SNAP allotment was calculated as \$58 effective December 2018. It should be noted that the Appellant's work requirement penalty expired November 30, 2018, causing the increase effective December 1, 2018 when the Appellant was added to the SNAP AG.

The Appellant testified that the car she drives is titled in her son's name and the loan is financed in her son's name. The Appellant purported that her son, who lives in another state, pays the monthly payment of \$545 directly to the finance company. The Appellant testified that her daughter pays whatever utility bills need to be paid, directly to the utility company, and denied that her daughter gives her money. The Appellant stated her caseworker asked her how much her bills were each month, which she estimated as \$600 monthly.

When asked for verification of the amount of money the Appellant receives from her daughter, the statements provided by [REDACTED] indicated that she pays her mother's bills and that the only income the Appellant receives is from her and her brother.

It is unclear how the Respondent determined that the Appellant received \$600 monthly from [REDACTED], when this amount was not verified by Ms. [REDACTED]. In the case recordings submitted by the Respondent, the Appellant advised that her son paid the car payment, with no indication that he gave her a cash contribution of \$545 each month.

It is also unclear why the Respondent allowed a shelter deduction and the OUS deduction, when the Appellant is responsible for paying her heating source of electricity. If the Appellant is receiving cash contributions from her children to pay her bills, then the Appellant is entitled to the HCS deduction, since the billed expense is paid out of the Appellant's resources. Alternatively, if the Appellant's bills are paid directly to the provider on her behalf, then she is not entitled to any shelter or utility deductions since the expenses are paid by someone outside of the SNAP AG.

The Appellant's testimony that she does not receive \$545 monthly from her son is found to be credible. This income was used in the determination of the Appellant's SNAP allotment erroneously. However, there was an indication in Ms. [REDACTED] November 19 statement that the Appellant received "income" from her and her brother. A determination of the Appellant's SNAP allotment cannot be accurately made without verification of the actual amount of money the Appellant receives each month.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, monthly SNAP allotments are determined by an individual's countable income, after all allowable deductions have been applied.
- 2) The Respondent did not verify the amount of income, if any, that the Appellant receives each month from her daughter.
- 3) A determination of the Appellant's SNAP allotment, which is contingent of the Appellant's countable net income and allowable income deductions, cannot be made without verification of income.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Respondent's determination of the Appellant's monthly SNAP allotment. This case is hereby **remanded** back to the Respondent for verification of the Appellant's cash contributions received from her children, if any, to determine her countable income, allowable deductions and resulting SNAP allotment.

ENTERED this 23rd day of January 2019.

**Kristi Logan
State Hearing Officer**