



**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**

May 1, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 20-BOR-1506

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: Heather Keffer, [REDACTED] County DHHR

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

██████████,

**Appellant,**

**v.**

**Action Number: 20-BOR-1506**

**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 28, 2020, on an appeal filed April 10, 2020.

The matter before the Hearing Officer arises from the April 8, 2020, decision by the Respondent to reduce the Appellant's 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:**

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 herself and her son, Child [REDACTED]
- 2) The Appellant receives Child Support of \$304.87 monthly for Child [REDACTED]
- 3) The Appellant's son, [REDACTED], is a full-time college student and is not included in the Appellant's SNAP assistance group.
- 4) The Appellant reported the onset of Unemployment Compensation Income (UCI) in February 2020 of \$378 weekly.
- 5) The Appellant was removed from the SNAP assistance group in error in February 2020.
- 6) The Appellant reported the error to the Respondent's Customer Service Center and \$498 in SNAP benefits were issued to the Appellant for February, March and April 2020 in retroactive payments.
- 7) On April 8, 2020, the Respondent notified the Appellant that her SNAP benefits would be reduced from \$194 to \$16 monthly, effective May 1, 2020.
- 8) The Appellant contested the Appellant's reduction in her SNAP benefits and the exclusion of [REDACTED] from the SNAP assistance group.

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual §4.4.3 states when no assistance group (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 (\$167)   |
| 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/Standard Utility Allowance (SUA) amount. The Heating/Cooling SUA is \$412.
- 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 maximum benefit allotment for the AG in Appendix A. The Worker will determine the benefit amount by using the following method. The eligibility system also uses this method.

- Multiple net income by 30% (Round up)
- Subtract 30% of net income as calculated above from the maximum monthly benefit for the AG size
- The resulting amount is the AG's monthly allotment, minus any recoupments.

One- and two-person AGs who meet the gross and net income test or who are categorically eligible as defined in Section 1.4.17.C automatically receive the minimum SNAP benefit, unless it is a prorated benefit.

West Virginia Income Maintenance Manual Chapter 4 Appendix A lists the maximum monthly SNAP benefit for a 2-person AG as \$355. The gross income limit for a 2-person AG is \$1,832 and the net income limit is \$1,410.

West Virginia Income Maintenance Manual §4.4.1.D states 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 §3.2.1.E states a student is an individual who is enrolled at least half time in a recognized school, training program or institute of higher education. A student enrolled at an institute of higher education is ineligible to participate in SNAP unless the individual qualifies for one of the exemptions described below. A student meets an exemption if he is:

- Under age 18;
- Age 50 or over;

- He is physically or mentally unfit for employment. An individual who meets the definition of disability and is considered unfit for employment.
- Participating in an on-the-job training program. This does not include the practical experience requirements that may be part of some courses of study, i.e., student teaching, internships, etc.;
- Employed at least 20 hours per week or 80 hours a month and is paid for the employment. times the minimum hourly wage but must actually work at least 20 hours a week or 80 hours a month, regardless of the amount of wages.
- Participating in a state or federally financed College Work Study (CWS) program during the regular school year; Participation means that the student has been approved for CWS during the school term and anticipates actually working during that time.
- Is included in a WV WORKS benefit;
- Assigned to or placed in an institution of higher education through one of the following:
  - Workforce Innovation and Opportunity Act (WIOA) Section 236 of the Trade Act of 1974
  - An employment and training program for low-income households that is operated by a state or local government when one or more of the program's components is at least equivalent to SNAP E&T
- Responsible for the care of a child under the age of six;
- Responsible for the care of an AG member who has reached the age of 6 but is under age 12 and adequate child care is not available to enable the student to attend class and satisfy the 20 hour work requirement or participate in a state or federally financed CWS program during the regular school year; or
- Is a single parent (natural, adoptive, or stepparent), regardless of marital status, and is responsible for an AG member under age 12, regardless of the availability of adequate childcare, and is enrolled full-time, as defined by the institution. o This applies in situations where only one natural, adoptive, or stepparent, regardless of marital status, is in the same AG with the child.

### **DISCUSSION**

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

The Respondent testified that although the Appellant reported the onset of UCI in February, the income was not applied to her case until April, resulting in the decrease in SNAP benefits effective May.

The Appellant testified that her son, [REDACTED] is attending college full-time, although due to the COVID-19 pandemic, he is finishing the semester online. The Appellant inquired about a possible waiver regarding student eligibility during the pandemic which would allow him to be included in the SNAP assistance group.

The United State Congress House Bill 6201 Public Law No. 116-127, Title III, §2301(a) that was passed on March 18, 2020 in response to the COVID-19 pandemic waived certain work requirements for SNAP eligibility. However, there are currently no waivers regarding student eligibility in effect. [REDACTED] a full-time college student, does not meet any exemptions in policy that would allow him to participate in SNAP and cannot be included in the Appellant's SNAP benefits.

The Appellant receives UCI of \$378 weekly, which is converted to a monthly amount by multiplying by 4.3 for a monthly income of \$1,625.40. The Appellant also receives Child Support of \$304.87 for total monthly income of \$1,930.27, The Appellant pays a mortgage of \$450 monthly, and pays utilities, including her household's heating source. No other deductions allowed by policy were used. The Appellant's SNAP allotment is calculated as follows:

- Step 1: Combine all earned income: \$0
- Step 2: Deduct 20% from total earned income: \$0
- Step 3: Add all gross countable unearned income: \$1,930.27
- Step 4: Subtract the Standard Deduction:  $\$1,930.27 - 167 = \$1,763.27$
- Step 5: Subtract Dependent Care Expenses:  $\$1,763.27 - 0 = \$1,763.27$
- Step 6: Subtract the amount of child support paid:  $\$1,763.27 - 0 = \$1,763.27$
- Step 7: Subtract the Homeless Shelter Deduction:  $\$1,763.27 - 0 = \$1,763.27$
- Step 8: Subtract medical expenses in excess of \$35 for all elderly/disabled AG members:  
 $\$1,763.27 - 0 = \$1,763.27$
- Step 9: Calculate 50% of the remaining income and compare it to the actual shelter/SUA costs:  $\$1,763.27 \times 50\% = \$881.63$ . The Heating SUA is  $\$412 + \$450$  mortgage = \$862 shelter/utility.
- Step 10: Because the shelter/SUA costs (\$862) are equal to or less than the amount found in step 9 (\$881.63), no further computation is needed, the amount from step 8 is the countable income.

To determine the Appellant's monthly SNAP allotment, the countable net income from Step 8 is multiplied by 30% and the remaining amount is subtracted from the maximum SNAP allotment for the AG:  $\$1,763.28 \times 30\% = \$528.98$ . The maximum SNAP allotment allowed by policy for a 2-person AG is \$355. Based on these calculations, the Appellant's SNAP allotment is \$0.

The April 8, 2020 notice of SNAP reduction determined the Appellant's SNAP allotment of \$16 based upon a gross monthly income of \$1,777.83. There is a discrepancy in the amount of income the Respondent used to determine the Appellant's SNAP allotment effective May 1, 2020 and the amount of income reported during the hearing. While the increase in an assistance group's income will cause a reduction in SNAP benefits, the Appellant's monthly SNAP allotment cannot be determined in the absence of evidence from the Respondent documenting the amount and source of income used to arrive at the \$16 benefit amount.

### **CONCLUSIONS OF LAW**

- 1) Monthly SNAP allotments are determined by a household's countable income after all allowable deductions have been applied.
- 2) The Appellant's monthly SNAP allotment decreased due to the onset of Unemployment Compensation Income.
- 3) Based upon a discrepancy in the amount of income used by the Respondent to determine the Appellant's \$16 benefit amount, and the amount of income reported during the hearing, a determination of the Appellant's SNAP allotment cannot be made.

### **DECISION**

It is the decision of the State Hearing Officer that the Respondent correctly reduced the Appellant's Supplemental Nutrition Assistance Program benefits due to the onset of income, but the case is hereby REMANDED for evaluation of the Appellant's Unemployment Compensation and Child Support income to determine the Appellant's monthly SNAP entitlement.

**ENTERED this 1<sup>st</sup> day of May 2020.**

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**Kristi Logan**  
**State Hearing Officer**