



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

**Bill J. Crouch  
Cabinet Secretary**

**BOARD OF REVIEW  
4190 Washington Street, West  
Charleston, West Virginia 25313  
304-746-2360  
Fax – 304-558-0851**

**Jolynn Marra  
Interim Inspector General**

July 13, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 20-BOR-1664

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: Tera Pendleton, Department Representative

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

██████████,

**Appellant,**

**v.**

**Action Number: 20-BOR-1664**

**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 June 24, 2020, on an appeal filed May 13, 2020.

The matter before the Hearing Officer arises from the May 7, 2020 decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 eRAPIDS computer system screenshot printout of Case Comments, dated May 10, 2019 through May 8, 2020
- D-2 SNAP – 6- or 12-month Contact Form (PRC2), dated November 9, 2019; ██████████  
██████████ Employment Paystub, dated October 10, 2019; ██████████  
██████████ Employment Paystub, dated October 25, 2020; and ██████████  
██████████ Employment Paystub, dated November 8, 2020
- D-3 Notice of Verification, dated April 21, 2020
- D-4 Notice of Decision, dated May 5, 2020
- D-5 Faxed Correspondence of ██████████ Employment  
Paystubs, dated May 5, 2020
- D-6 eRAPIDS computer system screenshot printout of Employment Income, dated May  
6, 2020
- D-7 Notice of Decision, dated May 7, 2020

**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 was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits for a three-person Assistance Group (AG).
- 2) On November 9, 2019, the Appellant submitted her SNAP 6- or 12-month Contact Form (PRC2) and reported employment at [REDACTED]. The Appellant also submitted three (3) semi-monthly paystubs. (Exhibit D-2)
- 3) On November 18, 2019, the Respondent processed the Appellant's PRC2 form and failed to update her employment income. (Exhibits D-1, D-2, and D-6)
- 4) On April 20, 2020, the Respondent updated the Appellant's employment income as being paid semi-monthly and working (40) forty hours weekly at \$11.50 per hour. (Exhibit D-1)
- 5) On April 21, 2020, the Respondent issued notice to the Appellant that verification of her monthly gross income was due on or before April 30, 2020. (Exhibit D-3)
- 6) On May 5, 2020, the Respondent issued notice to the Appellant advising her SNAP benefits would terminate effective June 1, 2020, due to her not providing all needed information. (Exhibit D-4)
- 7) On May 6, 2020, the Respondent entered the Appellant's employment paystubs for April 10, 2020, in the gross amount of \$1,229.32 and for April 24, 2020, in the gross amount of \$1,394.88. (Exhibit D-5)
- 8) On May 7, 2020, the Respondent issued notice informing the Appellant that her SNAP benefits would terminate effective June 1, 2020, due to excessive income. (Exhibit D-7)
- 9) The Respondent counted overtime hours for the Appellant when calculating her SNAP benefit allotment. (Exhibits D-5 and D-6)
- 10) Verified through a review of the Appellant's paystubs, her overtime in the amount of \$742.66 is defined as irregular income.

11) The Appellant's total gross monthly average income that does not include overtime is \$1,881.34.

12) The SNAP gross income limit for a three-person AG is \$2,311. (Exhibit D-8)

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) § 1.2.2.B reads that periodic reviews of total eligibility for recipients are mandated by federal law. The review may be held, pending receipt of necessary information or verification, but there are processing time limits that must be met. All redeterminations must have a final disposition and the client must be notified of the decision. Eligibility system changes and client notification of any changes resulting from the redetermination conclude the process.

WV IMM Chapter 4: Appendix A lists the maximum monthly SNAP benefit for a three-person AG as \$506. The gross income limit for a three-person AG is \$2,311 and the net income limit is \$1,778.

WV IMM § 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.

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.

WV IMM §4.4.1.D explains the 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

WV IMM § 4.5.4.G explains that regardless of the source, irregular income is excluded because it cannot be anticipated.

IMM § 10.4.2.D directs that all SNAP AGs certified for 12 or 24 months must have a report completed in the mid-month of eligibility. Verification is not required for the form to be considered complete. If a change is reported that requires verification, it must be requested using a DFA-6. Failure to provide requested verification results in AG closure or loss of a deduction after advance notice.

## **DISCUSSION**

The Appellant was a recipient of SNAP benefits for a three-person AG. On May 7, 2020, the Respondent issued notice informing the Appellant that her SNAP benefits would terminate effective June 1, 2020, due to excessive income. The Appellant contested the Respondent's calculation of her income which resulted in the termination of her SNAP benefits.

The Respondent testified that on November 9, 2019, the Appellant submitted her PRC2 and reported employment at [REDACTED]. The Appellant also submitted three (3) semi-monthly paystubs. On November 18, 2019, the Respondent processed the Appellant's PRC2 form and failed to update her employment income.

The Respondent testified the Appellant contacted the local DHHR on April 20, 2020, regarding registration with WorkForce WV. The Appellant testified that she reported to the worker that she started working in May 2019. On April 20, 2020, the Respondent updated the Appellant's employment income to paid semi-monthly and working (40) forty hours weekly at \$11.50 per

hour. The Respondent pended the Appellant's case for verification of her gross monthly income. On April 21, 2020, the Respondent issued notice to the Appellant that verification of her monthly gross income was due on or before April 30, 2020.

The Respondent testified the Appellant's gross monthly income totaled \$2,624.20. The Respondent testified that the Appellant received semi-monthly income of \$1,312.10, which is converted to a monthly amount by multiplying by 2 for a monthly amount of \$2,624.20. The Respondent testified the Appellant had overtime on both employment paystubs submitted and the overtime was counted for eligibility.

The Appellant testified that she turned in her paystubs multiple times. The Appellant also testified that her overtime income was due to COVID and questioned why the Respondent would count the overtime. She further argued that her overtime was never used before in her SNAP budget calculations. The Appellant testified that the month of April 2020 was the only time she has worked overtime and she is not regularly offered overtime. The Respondent testified that because overtime was shown on both paystubs, overtime was counted as part of the Appellant's gross monthly income. A review of the Appellant's two April paystubs shows that a majority of the year-to-date overtime hours come from these two paystubs and corroborates the Appellant's testimony that she does not normally receive overtime. Because of the Appellant's credible testimony that she does not normally work overtime, which was verified through a review of her paystubs, her overtime earned income should not be counted as an ongoing income source in determining her ongoing income for her SNAP budget calculation. Policy explains that regardless of the source, irregular income is excluded because it cannot be anticipated. Therefore, the Appellant's income should have been calculated as follows:

Step 1: Combine all earned income:  $(\$887.09 + \$994.25 = \$1,881.34 / 2 = \$940.67 \times 2) = \$1,881.34$

The Respondent's calculation of the Appellant's employment income is incorrect. The Appellant testified that she also pays a shelter cost monthly and utilities. The Appellant further questioned whether the Respondent applied shelter and utility deductions. The Respondent was unsure if a shelter deduction and utility deduction was used to determine the Appellant's SNAP eligibility. Policy explains that when no AG member is elderly or disabled, the gross income must be equal to, or less than, the gross income limit of \$2,311. Because the Appellant's income does not exceed the gross income limit of \$2,311, the Appellant does qualify for disregards and deductions and is eligible for SNAP benefits.

The June 1, 2020 notice of SNAP termination determined the Appellant's SNAP allotment of \$0 based upon a gross monthly income of \$2,624. There is a discrepancy in the amount of income the Respondent used to determine the Appellant's SNAP allotment effective June 1, 2020, and the amount of income reported during the hearing.

### **CONCLUSIONS OF LAW**

- 1) Policy requires that monthly SNAP benefits be determined by a household's countable income after all allowable deductions have been applied.
- 2) The Appellant's monthly SNAP allotment terminated due to excess income.
- 3) Because the Appellant's overtime is defined as irregular income, it should not be included when calculating her gross monthly income.
- 4) Because the Appellant's income does not exceed the policy limits of \$2,311 for a three-person AG, she is eligible to receive SNAP benefits.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to terminate the Appellant's SNAP benefit, effective July 1, 2020, due to excessive income. It is hereby **REMANDED** to the Respondent for re-evaluation of the Appellant's income to determine the Appellant's monthly SNAP allotment based on the exclusion of overtime and the inclusion of any applicable shelter and utility deduction.

**ENTERED this \_\_\_\_ day of July 2020.**

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**Danielle C. Jarrett**  
**State Hearing Officer**