



**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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Jolynn Marra
Interim Inspector
General

November 13, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 20-BOR-2290

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 Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson, MLS
State Hearing Officer
State Board of Review

Enclosure: Appellant's Recourse
Form IG-BR-29

cc: David Griffin, [REDACTED] County DHHR

[REDACTED],

V.

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

DECISION OF STATE HEARING OFFICER

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' (DHHR) Common Chapters Manual. This fair hearing was convened on November 5, 2020 on an appeal filed with the Board of Review on October 1, 2020.

At the hearing, the Respondent appeared by David Griffin, [REDACTED] County DHHR. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

D-1 DHHR Notice, dated August 21, 2020

D-3 Unemployment Compensation Recent Payment Activity, payment issued July 14, 2020

Appellant's Exhibits:

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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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits for a three-person Assistance Group (AG) —which included the Appellant and her two children (Exhibits D-1 and D-4).
- 2) On August 21, 2020, the Respondent issued a notice advising the Appellant that her SNAP benefits would be terminated, effective October 1, 2020, due to her income increasing beyond SNAP eligibility guidelines (Exhibit D-1).
- 3) The Respondent used the AG's gross monthly unearned income amount of \$2,459.60 to determine the AG's SNAP eligibility (Exhibit D-1).
- 4) At the time of the Appellant's March 2020 SNAP eligibility approval, the Appellant was laid off from employment and was pending Unemployment Compensation (UC) income benefits (Exhibit D-4).
- 5) The Appellant did not report any change of AG income between March 17 and August 7, 2020 (Exhibit D-4).
- 6) On August 7, 2020, the Appellant completed a Low Income Energy Assistance Program (LIEAP) application, which the Respondent pended for verification of UC income (Exhibit D-4).
- 7) On August 18, 2020, the Appellant submitted a July 21, 2020 [REDACTED] Notice of Financial Determination as verification of UC income for the purposes of determining the AG's LIEAP eligibility (Exhibits D-2 and D-4).
- 8) The Respondent redetermined the AG's SNAP eligibility based on the AG's August 18, 2020 UC income verification (Exhibits D-1 and D-4).
- 9) On September 10, 2020, the Appellant contacted the Respondent by telephone and reported that she was not receiving UC income (Exhibit D-4).

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 1.2.2.C provide in part:

A review may be conducted at any time on a single or combination of questionable eligibility factor(s). The case maintenance process may involve a review or

activities that update the Department's information about the client's circumstances between redeterminations. Changes in eligibility or the benefit amount may occur.

WVIMM § 1.2.4 provides in part:

The client is responsible for providing complete and accurate information about her circumstances so that the Worker is able to make a correct determination about her eligibility.

WVIMM §§ 10.2.1.B, 10.4.2.B.2, 10.4.2.B.4, and 10.4.2.C provide in part:

Case maintenance may originate when a report is obtained from the client. A change is considered reported during an application for any program of assistance that is entered in the eligibility system and includes an AG member. All changes reported directly by an AG member must be acted on. When a client's circumstances change so that he becomes ineligible, the AG is closed.

When reported information results in a change in benefits and additional or clarifying information is needed, the Worker must first request the information by using the DFA-6 or verification checklist. Unclear information is any information received from any source with which the Worker cannot readily determine the effect of the reported information on the household's benefits. The Worker must pursue clarification and required verification of unclear information related to these reported changes. Additional information requested from the client is due 10 calendar days from the date of the DFA-6 or verification checklist.

When the Appellant reports a decrease in income and the effect of the change would result in the increase of benefits, and requested information is not returned, no change is made to the benefit level. To determine if a lost benefit should be restored, a decision must be made as to whether or not a change was reported in a timely manner. If the client fails to report a change that would have increased benefits, benefits are not restored.

WVIMM §§ 7.2.1 and 7.2.4 provide in part:

Verification of a client's statement is required when the information provided is questionable. To be questionable, it must be:

- Inconsistent with other information provided; or
- Inconsistent with the information in the case file; or
- Inconsistent with information received by the DHHR from other sources; or
- Incomplete; or
- Obviously inaccurate; or
- Outdated

The Worker should only request additional verification if information provided is incomplete or additional information is necessary to determine eligibility. If the

client is unsuccessful in obtaining information, the Worker must document attempts to obtain the verification. The Worker must accept any reasonable documentary evidence as verification and must not require a specific kind or source of verification. Verification may be submitted in person, by mail, by fax, or electronically.

WVIMM §§ 4.3.1.92, 4.4.3.A, and Chapter 4, Appendix A provide in part:

Unemployment Compensation Insurance (UCI) is counted as earned income for the purpose of determining SNAP eligibility. When no Assistance Group (AG) member is elderly or disabled, the monthly gross income must be equal to, or less than, the gross income limit in Appendix A. If so, the AG qualifies for income disregards and deductions. If the gross income exceeds the amount in Appendix A, the AG is ineligible.

For a three-person AG, the gross income limit is \$2,408.

WVIMM § 7.2.3 provide in part:

The primary responsibility for providing verification rests with the client. The client is expected to provide information to which she has access and to sign authorizations needed to obtain other information. Failure of the client to provide necessary information or to sign authorizations for release of information results in closure of the active case, provided the client has access to such information and is physically and mentally able to provide it.

DISCUSSION

The Appellant contested the Respondent's termination of her Supplemental Nutrition Assistance Program (SNAP) benefits and argued that the Respondent incorrectly included [REDACTED] Unemployment Compensation ([REDACTED] UC) income when determining the AG's SNAP eligibility. The Appellant did not contest the income calculation used by the Respondent when making the August 21, 2020 determination, only the Respondent's inclusion of [REDACTED] UC income when determining the AG's SNAP eligibility.

The Respondent had to prove by a preponderance of evidence that the Appellant's [REDACTED] UC income was correctly included when deciding the Appellant's SNAP eligibility. Further, the Respondent had to prove that the AG's gross monthly income exceeded the SNAP eligibility guidelines at the time of the AG's August 21, 2020 SNAP eligibility determination.

The policy provides that when the Appellant reported a change of income during her LIEAP application, the Respondent was required to act on the reported change and review the AG's continued eligibility for SNAP benefits. The evidence established that the Appellant submitted the [REDACTED] Notice of Financial Determination (hereafter, [REDACTED] Notice) as verification of her [REDACTED] UC income for the purpose of determining the AG's LIEAP

eligibility. During the hearing, the Appellant argued that the [REDACTED] Notice was not a document verifying the amount of her [REDACTED] UC income. However, no reliable evidence was entered to establish that the [REDACTED] Notice was submitted for purposes other than as income verification for establishing LIEAP eligibility. The Appellant argued that she had not received any [REDACTED] UC income payments, since July 14, 2020, and contended that when submitting the [REDACTED] Notice, she had made a notation of not receiving [REDACTED] UC payments at the time of her LIEAP application. However, neither the [REDACTED] Notice scanned by the Respondent on August 18, 2020 nor the Respondent's case comments reflected any such notation. The evidence reflected case comments kept by various Respondent staff as routine records required by policy to be made to document changes to the case and the subsequent Respondent worker actions. No evidence was entered to contest the reliability of the Respondent's documentation.

At the time the Respondent made the August 21, 2020 determination regarding the Appellant's SNAP eligibility, the Respondent based the determination on the [REDACTED] UC income verification provided by the Appellant on August 18, 2020. The policy requires the Respondent to consider the Appellant's [REDACTED] UC income as income for the purpose of determining SNAP benefit eligibility. The Appellant has a responsibility to report true and correct information about her circumstances so that a correct decision can be made regarding her benefit eligibility. The evidence established that the Appellant did not report the loss of [REDACTED] UC income to the Respondent until September 10, 2020. Whereas the Appellant had not the reported loss of [REDACTED] UC income before the Respondent's August 21, 2020 SNAP eligibility determination, information reported on September 10, 2020 could not be considered during the Respondent's August 21, 2020 determination of the AG's SNAP eligibility. Therefore, the evidence established that the Respondent correctly considered the Appellant's [REDACTED] UC income verification when making a decision regarding the AG's SNAP eligibility. As the AG's gross income limit exceeded the SNAP eligibility guidelines, the Respondent correctly acted to terminate the Appellant's SNAP benefits.

While a decrease in [REDACTED] UC income reported by the Appellant on September 10, 2020 could not be considered regarding the correctness of the Respondent's August 21, 2020 SNAP eligibility determination, the policy does stipulate that the Respondent had a responsibility to issue a verification checklist to clarify questionable and outdated information inconsistent with other information in the Appellant's casefile. The policy provides that the primary responsibility for providing verification rests with the Appellant and that the Appellant is expected to provide the information to which she has access and to sign authorizations needed for the Respondent to obtain other information to which the Appellant has no access. Therefore, the Respondent should take action to issue a verification checklist in response to the Appellant's September 10, 2020 report of decreased income and document all attempts to obtain verification of the Appellant's report.

CONCLUSIONS OF LAW

1. The Respondent was required by policy to consider the Appellant's [REDACTED] Unemployment Compensation income when determining the Appellant's Supplemental Nutrition Assistance Program (SNAP) eligibility.

2. The evidence established that at the time of the Respondent's August 21, 2020 SNAP eligibility determination, the Assistance Group's (AG) gross monthly income exceeded SNAP eligibility guidelines for a three-person AG.
3. The Respondent's August 21, 2020 decision to terminate the Appellant's SNAP benefits was correct.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's SNAP benefits.

ENTERED this 13th day of November 2020.

Tara B. Thompson, MLS
State Hearing Officer