



**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 14, 2020



RE: [REDACTED] v. WV DHHR
ACTION NO.: 19-BOR-2789

Dear Mr. [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: Leslie Bonds, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 19-BOR-2789

**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 2, 2020, on an appeal filed December 2, 2019.

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

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

Department's Exhibits:

- D-1 Hearing Request Notification Form
- D-2 Hearing Request received December 2, 2019
- D-3 Notice of Decision dated October 8, 2019
- D-4 West Virginia Income Maintenance Manual §4.4.2
- D-5 SNAP Budget Screen Print
- D-6 West Virginia Income Maintenance Manual Chapter 4 Appendix B
- D-7 Printout from ██████████ ██████████
- D-8 Rent Receipt for February 2019
- D-9 SNAP 6 or 12-Month Contact Form received July 31, 2019
- D-10 Rent Receipts for June and July 2019
- D-11 Case Comments for August 2019

- D-12 Water, Sewer, Gas and Electric Bills
- D-13 Statement of Rent for October 2019
- D-14 Case Comments for October through December 2019
- D-15 Case Comments for October 2019 for Case Number 8023337483
- D-16 Department's Summary

Appellant's Exhibits:

A-1 Water/Sewer Bill

A-2 Receipts from [REDACTED]

A-3 Electric Bill

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.
- 2) The Appellant resides with [REDACTED] but is in a separate SNAP assistance group from her.
- 3) In February 2019, the Appellant reported that he paid \$300 a month in rent to Ms. [REDACTED] and paid half of the home's utility costs (Exhibit D-8).
- 4) In July 2019, the Appellant completed a SNAP eligibility review and reported that his rent was \$500 a month and did not report paying any utility costs (Exhibit D-9).
- 5) Rent receipts signed by Ms. [REDACTED] for June and July 2019 were submitted verifying the increase in the Appellant's rent (Exhibit D-10 and D-11).
- 6) In August 2019, the Appellant contacted his caseworker about his SNAP allotment and reported that the \$500 rent amount paid to Ms. [REDACTED] includes utilities (Exhibit D-11).
- 7) The Respondent requested the Appellant provide clarifying documentation from Ms. [REDACTED] indicating what portion of the \$500 is for rent and what portion is for utilities (Exhibit D-11).
- 8) In October 2019, [REDACTED] reported to the Respondent that the Appellant paid her \$400 monthly in rent and that all utility expenses were paid by her (Exhibits D-13 and D-15).
- 9) The Appellant's SNAP allotment was based upon a \$300 monthly rental obligation and the heating Standard Utility Allowance (Exhibit D-5).

APPLICABLE POLICY

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

When a client fails to report household expenses that would normally result in a deduction, the AG loses their entitlement to that deduction. They have a right to the expense, once it is reported and verified, if required by policy.

West Virginia Income Maintenance Manual §4.4.2.B.7 states the Worker must allow the shelter or utility expense 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 states that Standard Utility Allowances (SUAs) 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. Eligibility for the SUA must be evaluated at certification, redetermination, and when the AG reports a change in utilities that may affect its eligibility for a deduction.

SHARED RESIDENCE EXCEPTION: When an AG shares a residence with another AG or non-AG and shares any utility expense, the AG is eligible to receive the appropriate SUA based on all the utilities of the residence.

West Virginia Income Maintenance Manual §4.4.3 states when at least one assistance group (AG) member is elderly, which is at least age 60, or disabled, SNAP 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, if applicable
- 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 \$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.

The Worker will determine the benefit amount by using the following method:

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

DISCUSSION

Pursuant to policy, monthly SNAP allotments are determined by a household's countable income after all allowable deductions have been applied. The Appellant receives Social Security \$859 monthly and was given a deduction for \$300 monthly in rent and the Heating Standard Utility Allowance.

The Appellant testified that since a third roommate moved out of the home, he started paying [REDACTED] \$400 monthly in rent, instead of \$300. The Appellant testified that he pays half of the utility expenses with Ms. [REDACTED] each month. The Appellant contended that his monthly prescription costs exceed \$35 each month and that he also pays for a prescription drug plan with AARP. The Appellant was unsure of the amount of the drug plan since the premium is deducted from his Social Security benefits each month.

The Appellant provided the Respondent with a printout of his monthly prescription costs with [REDACTED] for April through September 2019 (Exhibit D-7). The Appellant's monthly out-of-pocket cost for his prescriptions did not exceed \$35, therefore he is not entitled to medical deduction for prescriptions. There is no evidence that the Appellant reported the expense for the prescription drug plan prior to the hearing, therefore a deduction for the expense cannot be allowed until the expense is verified.

The Respondent argued that because there has been contradictory information regarding the Appellant's actual rent and utility obligation, his shelter deductions have not been updated since February 2019.

██████████ reported to the Respondent that she received \$400 from the Appellant for rent in October 2019 during her SNAP eligibility review. The Appellant provided a written statement in October verifying that he paid Ms. ██████████ this amount each month (Exhibit D-15). The Appellant is entitled to receive a shelter deduction of \$400 monthly.

Although there was conflicting information from Ms. ██████████ regarding sharing utilities with the Appellant, the household's electric bill is in the Appellant's name (Exhibit D-12). Per policy, a deduction must be allowed if an expense is billed and the AG is obligated to pay the expense with the AG's excluded or non-excluded resources. Additionally, because the Appellant shares a residence with another AG and shares a utility expense, he is eligible to receive the appropriate SUA based on all the utilities of the residence.

CONCLUSIONS OF LAW

- 1) The Appellant reported an increase in his monthly rent obligation in October 2019, which was confirmed by cohabiter.
- 2) The Appellant is entitled to receive a shelter deduction of \$400 for his monthly rental obligation.
- 3) The household's electricity expense is billed to the Appellant each month.
- 4) Pursuant to policy, when an assistance group (AG) shares a residence with another AG and shares any utility expense, the AG is eligible to receive the appropriate Standard Utility Allowance based on all the utilities of the residence.
- 5) The Appellant is entitled to a Standard Utility Allowance based upon all of the utilities of his and Ms. ██████████ household.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Respondent's determination of the Appellant's monthly Supplemental Nutrition Assistance Program benefits and **remand** the case for a recalculation of the Appellant's monthly allotment based upon the correct rental and Standard Utility Allowance deductions.

ENTERED this 14th day of January 2020.

Kristi Logan
State Hearing Officer