



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

Bill J. Crouch
Cabinet Secretary

**BOARD OF REVIEW
State Capitol Complex
Building 6, Room 817-B
Charleston, West Virginia 25305
Telephone: (304) 558-2278 Fax: (304) 558-1992**

Jolynn Marra
Interim Inspector General

September 23, 2021



RE: [REDACTED] v. WVDHHR
ACTION NO.: 21-BOR-1815

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 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,

Angela D. Signore
State Hearing Officer
State Board of Review

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

cc: Rebecca Skeens, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 21-BOR-1815

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on August 19, 2021 and reconvened September 2, 2021, on an appeal filed July 23, 2021.

The matter before the Hearing Officer arises from the July 13, 2021 determination by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Rebecca Skeens, Economic Service Worker, DHHR. Appearing as a witness for the Respondent was Linda Stover, Investigator, Investigations and Fraud Management (IFM). The Appellant appeared *pro se*. When the hearing was reconvened on September 02, 2021, the Respondent appeared by Rebecca Skeens, Economic Service Worker, DHHR. Appearing as a witness for the Respondent was Jerri Smith, Investigator, IFM. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV PATH eligibility system printout of Case Comments, dated June 26, 2021 through July 15, 2021
- D-2 DHHR Notice of Eligibility, dated July 13, 2021
- D-3 West Virginia Income Maintenance Manual (WVIMM) § 11.5.2.B

- D-4 DHHR Application for Low Income Energy Assistance Program (LIEAP), dated December 10, 2019; Appalachian Power Company Termination Notice, dated December 2019; DHHR Supplemental LIEAP Form, dated December 16, 2019; and DHHR LIEAP Application Checklist, dated December 18, 2020
- D-5 DHHR Medicaid/CHIP Review Notice, dated February 18, 2020; and DHHR Medicaid/CHIP Review Form completed February 25, 2020
- D-6 DHHR SNAP Review Notice, dated February 24, 2020; and DHHR SNAP Review Form completed February 25, 2020
- D-7 DHHR LIEAP Application, dated December 06, 2020; and Appalachian Power Company Termination Notice, dated December 2020
- D-8 DHHR Medicaid/CHIP Review Notice, dated February 12, 2021; and DHHR Medicaid/CHIP Review Form completed February 20, 2021
- D-9 DHHR SNAP Review Notice, dated February 17, 2021; and DHHR SNAP Review Form, completed February 20, 2021
- D-10 DHHR Investigations and Fraud Management (IFM) Unit Account Summary Verification Request issued to Poca Valley Bank, dated April 14, 2021; Hand Written Banking Account Credit Transactions, dated April 2019 through March 2021

Appellant's Exhibits:

- A-1 Poca Valley Bank Monthly Account Statements, dated May 01, 2019 through December 31, 2019
- A-2 Poca Valley Bank Monthly Account Statements, dated January 01, 2020 through December 31, 2020
- A-3 Poca Valley Bank Monthly Account Statements, dated January 01, 2021 through February 26, 2021; Poca Valley Bank Monthly Account Statement, dated February 27, 2021 through March 31, 2021; Poca Valley Bank Monthly Account Statement, dated January 30, 2021 through February 26, 2021; Poca Valley Bank Monthly Account Statement, dated December 01, 2020 through December 31, 2020; and Poca Valley Bank Monthly Account Statement, dated March 30, 2019 through April 30, 2019

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 is a recipient of SNAP benefits for a two-person Assistance Group (AG). (Exhibit D-2)
- 2) On January 22, 2021, the Front-End Fraud Unit (FEFU) launched an investigation to determine if the Appellant was self-employed and receiving undisclosed income. (Exhibits D-1 and D-10)

- 3) On April 14, 2021, FEFU issued a letter to Poca Valley Bank requesting verification of the Appellant's account summary. (Exhibit D-10)
- 4) As a result of the FEFU investigation, the Appellant's self-employment could not be verified; however, the Department determined that the Appellant was receiving income from an unknown source. (Exhibit D-10)
- 3) On July 10, 2021, the Respondent received the results of the investigation, and the undisclosed income as determined by FEFU was entered into the system. (Exhibits D-1 and D-2)
- 4) On July 13, 2021, by Notice of Decision, the Respondent informed the Appellant of a reduction of SNAP benefits from \$276.00 to \$114.00 due to the household income increasing, effective August 01, 2021. (Exhibit D-3)
- 5) The Appellant's only source of income is Supplemental Security Income (SSI) in the amount of \$794.00 per month. (Exhibit D-2)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 1.2.2 provides, in part:

Periodic reviews of total eligibility for recipients are mandated by federal law. These are redeterminations and take place at specific intervals, depending on the program or Medicaid coverage group. Failure by the client to complete a redetermination will result in termination of benefits. If the client completes the redetermination process by the specified program deadline(s) and remains eligible, benefits must be uninterrupted and received at approximately the same time.

WVIMM §§ 6.1-6.1.2 provides, in part:

Federal Data Hub and Income and Eligibility Verification System (IEVS) are electronic sources that perform data matches to verify types of income/assets. Data exchange information available at application and review may be used by the Worker to evaluate discrepancies in the client's statement when it disagrees with Hub data.

Information is provided to the Worker through data exchanges. Information obtained through IEVS is used to verify the eligibility of the AG, to verify proper amount of benefits, and to determine if the AG received benefits to which it was not entitled.

WVIMM § 11.2.1 provides, in part:

The establishment, notification, and collection of SNAP claims is the responsibility of the Investigations and Fraud Management (IFM) Claims and Collections Unit (CCU). The collection staff members are known as Repayment Investigators (RI). Upon discovery of a potential SNAP claim, the Worker refers the case to the RI through the eligibility system. In determining if a referral is appropriate, the Worker must consider the client's reporting requirements, the Worker's timely action, and the advance notice period.

WVIMM § 11.5.2.B provides, in part:

The FEVS reports his investigative findings by completing Section A of the FEFU-1 and forwarding it to the Worker. A copy of the eligibility system referral is attached to the FEFU-1. The Worker must take appropriate case action based on the investigative findings. The Worker notifies the FEVS of action taken by completing Section B of the FEFU-1 and returning it within 10 days of receipt. See Appendix A for an example of a completed FEFU-1. If an overpayment appears likely, the FEVS makes the appropriate referral to the Claims and Collections Unit (CCU) or the Criminal Investigations Unit (CIU).

DISCUSSION

The Appellant is a recipient of SNAP benefits for a two (2) person AG. On January 22, 2021, the Front-End Fraud Unit (FEFU) launched an investigation to determine if the Appellant was working and receiving undisclosed self-employment income as a mechanic. The Appellant's caseworker was notified by an investigator with FEFU that the Appellant was self-employed and failed to disclose earned household income. The Appellant contests the Respondent's decision and disputes the Department's finding of undisclosed self-employment income. The Respondent had to prove by a preponderance of evidence that the Appellant is self-employed and failed to disclose the earned household income as required by policy.

On April 14, 2021, FEFU issued a letter to Poca Valley Bank requesting verification of the Appellant's account summary. Upon receipt of the Appellant's banking account summary, FEFU concluded its inquiry and determined the Appellant to have undisclosed self-employment income in the amount of \$7,001.26, beginning April 2019 through March 2021. As a result of the investigation, the Department concluded that while the Appellant's employment could not be verified, it was determined that the Appellant was receiving undisclosed income from an unknown source. On July 10, 2021, FEFU notified the Appellant's caseworker that the Appellant was self-employed and failed to report \$530.53 per month undisclosed earned household income. The Respondent entered the undisclosed income into the Appellant's case, and, by notice of decision dated July 13, 2021, informed the Appellant that effective August 01, 2021, the Appellant's SNAP benefits would decrease from \$276.00 to \$114.00 per month due to "income from self-employment has increased. Earned income increased."

The Appellant testified that he was not self-employed and disputed the Department's findings as provided by Poca Valley Bank. The Appellant argued that after requesting copies of his account statements, the Respondent erred in its calculations. The Appellant contends that the calculations FEFU received from his financial institution include multiple returns of previously purchased items that reflect in the form of account credits, cash deposits of money received through the COVID-19 Coronavirus Economic Impact Payments/Stimulus Checks, as well as various cash deposits made on behalf of his daughter during special occasions. The Appellant reasoned that because he is a recipient of the Supplemental Security Income (SSI) program, his countable resources must not exceed the \$2,000 resource limit as determined by Social Security Administration policy. The Appellant further testified that due to this threshold, he makes certain to refrain from depositing large amounts of cash/checks into his banking account, instead, opting to receive cash that is then deposited in small increments, as needed. The Appellant reasoned that he must take this approach, due to a previous complication with the Social Security Administrations resource limit.

After a review of evidence and testimony presented, it can be determined that the evidence submitted by the Department was largely circumstantial. This Hearing Officer finds that case records made by Respondent Witnesses, Linda Stover and Jerri Smith, were unreliable due to the number of errors reflected in the record. When comparing the account summary received from Poca Valley Bank to the account statements submitted by the Appellant, multiple calculation errors were exhibited when calculating the amount of alleged undisclosed income during the months of April 2019 through March 2021.

By the Respondent's Witness's own admission, the information provided prior to the hearing was accurate to the best of her knowledge; however, she has since learned that her income calculations did contain errors. The Respondent's Witness testified that the Appellant's Supplemental Security Income benefits Cost-of-Living Adjustments (COLA) were not taken into consideration. What can also be discerned by this Hearing Officer is that the Department relied heavily on the verification of account summary provided by the Appellant's financial institution. However, the financial institution itself did not take into consideration any purchase returns. Instead, the bank employee calculated all purchase returns/refunds as "deposits," which were then included into the Department's calculation of "earned income" from "an unknown source."

In addition, individuals who receive SSI payments due to disability receive those payments on the 1st of each month. If your payment date falls on a federal holiday or weekend, you can expect to receive that month's payment on the weekday immediately prior. The Department also did not take into consideration those days where the Appellant's SSI payment dates did fall on holidays or weekends and deposited into the Appellant's account early. Instead, the Appellant's \$794 unearned income was calculated as additional undisclosed earned income in certain months. Further, the evidence did not reflect IRS deposits received through the COVID-19 Coronavirus Economic Impact Payments/Stimulus Checks, adding reliability to the Appellant's argument. Because of the prevalence of discrepancies, the Respondent's evidence was given little weight; and therefore, the basis of reduction to the Appellants SNAP benefits was not established.

CONCLUSIONS OF LAW

- 1) The Respondent failed to prove by a preponderance of evidence that the Appellant was self-employed and withheld the disclosure of earned income.
- 2) The Appellant's only source of income is Supplemental Security Income (SSI) in the amount of \$794.00 per month.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to reduce the Appellant's monthly SNAP allotment effective August 1, 2021

ENTERED this ____ day of September 2021.

Angela D. Signore
State Hearing Officer