



**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) 352-0805 Fax: (304) 558-1992**

**Jolynn Marra  
Inspector General**

September 1, 2022

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 22-BOR-1934

Dear [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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Patricia White, Department Representative

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

██████████,

**Appellant,**

**v.**

**Action Number: 22-BOR-1934**

**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 August 23, 2022, on an appeal filed August 3, 2022.

The matter before the Hearing Officer arises from the June 23, 2022 decision by the Respondent to deny the Appellant's Supplemental Nutrition Assistance Program (SNAP) application due to excessive income.

At the hearing, the Respondent appeared by Patricia White. The Appellant appeared *pro se*. All witnesses were sworn and the following document was admitted into evidence.

**EXHIBITS**

**Department's Exhibits:**

- |     |   |
|-----|---|
| D-1 | Notice of decision, dated June 23, 2022                         |
| D-2 | West Virginia Income Maintenance Manual (WVIMM) policy excerpts |

**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 applied for SNAP in May 2022.
- 2) The Appellant is in a three-person SNAP assistance group (AG).
- 3) The Appellant has gross household income of \$2423 per month from the following income sources: Social Security Disability (\$1097 per month) and Social Security benefits for the two children in the household (\$663 per month each, or \$1326).
- 4) At the time of the Appellant's application, she did not have verified medical expenses, dependent care deductions, or support payments countable for purposes of SNAP eligibility. (Exhibit D-1)
- 5) The Appellant pays for electricity on a regular basis as her primary heating and cooling expense.
- 6) The Respondent notified the Appellant of the denial of her SNAP application in a notice dated June 23, 2022. (Exhibit D-1)
- 7) This notice (Exhibit D-1) provided the basis for denial as, "Income is too much for you to receive benefits."

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WVIMM) Chapter 4, addresses income, and at §4.4 details income for SNAP eligibility purposes. At §4.4.3, this policy provides, "The process of determining eligibility and the amount of the benefit differs when an AG member is elderly or disabled."

At §4.4.3.A, the policy reads, "When at least one AG member is elderly, which is at least 60, or disabled as specified in Section 13.15, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. There is no gross income test."

At §4.4.2.B.2, policy reads, "A Standard Deduction is applied to the total non-excluded income counted for the AG, after application of the Earned Income Disregard. The amount of the Standard Deduction is found in Appendix B."

The WVIMM, Chapter 4, Appendix B, lists the Standard Deduction amount for an AG size between one (1) and three (3) as \$177.

At §4.4.2.B.7, the WVIMM addresses the shelter and utility deduction for SNAP, and reads, in part:

After all other exclusions, disregards, and deductions had been applied, 50% of the remaining income is compared to the total monthly shelter costs and the appropriate SUA. If the shelter costs/SUA exceed 50% of the remaining income, the amount in excess of 50% is deducted. The deduction cannot exceed the shelter/utility cap found in Appendix B.

EXCEPTION: The cap on the shelter/utility deduction does not apply when the SNAP AG includes an individual who is elderly or disabled, as defined in Section 13.15.

At §4.4.2.C, the WVIMM lists mortgage payments, insurance (on the structure and lot), and property taxes as categories of shelter expenses.

At §4.4.2.C.1, policy sets the Heating/Cooling Standard (HCS) as a category of Standard Utility Allowance (SUA). This section further states that an AG is eligible for the HCS when “...obligated to pay a heating or cooling expense that is billed on a regular basis...To qualify for the HCS, the heating or cooling expenses must be for the primary source of heating or cooling...The expense for heating or cooling must be billed separately from the rent or mortgage, even if the AG combines those payments...”

The WVIMM, Chapter 4, Appendix B, lists the HCS as \$436.

At §4.4.3.B, policy provides steps for totaling unearned income sources and subtracting deductions and disregards including the Standard Deduction, child support, and medical deductions. The next step (Step 9) in determining income is to “Calculate 50% of the remaining income and compare it to the actual monthly shelter/SUA amount.” When the AG includes at least one person who is elderly or disabled, and the Shelter/SUA is equal to or less than the amount determined in Step 9, “No further computation is needed. The amount from Step 8 is the countable income.” This amount is then compared to “...the maximum net income in Appendix A for the AG size.”

The WVIMM, Chapter 4, Appendix A, lists the SNAP Net Income limit for an AG size of three (3) as \$1830.

## **DISCUSSION**

The Appellant has appealed the Respondent’s decision to deny her SNAP application due to excessive income. The Respondent must show by a preponderance of the evidence that it properly denied SNAP benefits on this basis.

The Appellant applied for SNAP, with an assistance group (AG) size of three (3) and gross monthly income of \$2423. One of the household members received Social Security Disability income, establishing the household as elderly or disabled for purposes of SNAP medical deductions, removal of the SNAP shelter/utility cap, and sole use of the net income limit for SNAP income eligibility determination.

Neither party provided adequate evidence at the hearing to directly establish income deductions and disregards used in the calculation of the Appellant's SNAP net income amount. Neither party provided convincing testimony regarding the actual deductions used. Testimony from the representative for the Respondent relied on prompting from data sources unavailable for review by the Hearing Officer and for review and dispute by the Appellant.

The total, monthly gross income amount for the Appellant's household was listed as \$2246 (Exhibit D-1), and this amount was not disputed.

The standard deduction of \$177 for the Appellant's household size of three (3) is set by policy. The Appellant misunderstood what this deduction was but had no dispute of her household size.

The parties agreed that there were no dependent care deductions or support payments to consider in the SNAP income calculation for the Appellant's household. At the time of the application, the Appellant did not have verified medical expenses. Subsequent to the denial, the Appellant has verified medical expenses which are taken into account in her present SNAP eligibility. However, these expenses must be verified to be considered in the SNAP income calculation.

The parties agreed that the Appellant's mortgage amount was \$223.10 per month. The Appellant reported \$165 per month in home insurance and \$1000 per year in property tax, which converts to a monthly amount of \$83.33. The different amounts provided by the Respondent for property tax and home insurance could not be considered since their source was concealed from the Appellant. The Respondent was given the opportunity to provide evidence and did not document these amounts from their source data. The Appellant's monthly shelter amount is \$471.43.

The Appellant appeared to have misread a section of policy regarding the shelter and utility deductions. Although actual shelter expenses are used, policy establishes the Appellant is eligible for a Standard Utility Allowance (SUA) type referred to as the Heating/Cooling Standard (HCS). SUAs are fixed deductions, and the HCS set by policy at the time of the Appellant's application was \$436 per month.

The Appellant's gross monthly income (\$2423) minus the standard deduction (\$177) leaves \$2246 in "remaining income" for comparison to shelter and utility expenses. Policy from §4.4.2.B.7 of the WVIMM provides that 50% of this "remaining income" is compared to applicable shelter and utility costs. The \$471.43 per month in shelter costs combined with the HCS of \$436 results in shelter/SUA costs for the Appellant's household of \$907.43. This shelter/SUA cost amount is not capped because the Appellant's household includes an individual who is elderly or disabled. The \$907.43 in shelter/SUA costs is compared to 50% of \$2246, or \$1123. Because the shelter/SUA costs do not exceed half of the \$2246 in "remaining income,"

this is the net income amount for the household. This corresponds with the \$2246 listed as “Your Countable Net Income” and “Net Adjusted Income” on Exhibit D-1. This amount exceeds the SNAP net income limit of \$1830 shown in Appendix A of the WVIMM and shown on Exhibit D-1 as “SNAP Net Income Limit.”

Based on the reliable evidence and testimony at hearing, the Respondent correctly determined the net income of the Appellant’s household exceeded the limit set by policy and correctly denied the Appellant’s SNAP application on that basis.

### **CONCLUSIONS OF LAW**

- 1) Because the Appellant has \$2246 in SNAP net income and an assistance group (AG) size of three (3), her household is over the corresponding net income limit of \$1830 set by SNAP policy.
- 2) Because the Appellant’s household income exceeds the net income limit, the Respondent was correct to deny the Appellant’s SNAP application.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent’s decision to deny the Appellant’s SNAP application based on excessive income.

**ENTERED this \_\_\_\_ Day of September 2022.**

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**Todd Thornton**  
**State Hearing Officer**