



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

Bill J. Crouch  
Cabinet Secretary

Board of Review  
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Sheila Lee  
Interim Inspector General

October 27, 2022

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 22-BOR-2114 and 22-BOR-2136

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 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: Sarah Rivera, [REDACTED] DHHR

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

██████████,

**Appellant,**

v.

**ACTION NO.: 22-BOR-2114  
22-BOR-2136**

**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 of Chapter 700 of the West Virginia Department of Health and Human Resources' (DHHR) Common Chapters Manual. This fair hearing was convened on October 4, 2022, in response to an appeal filed with the Board of Review on September 12, 2022.

The matter before the Hearing Officer arises from the Respondent's August 22, 2022 decision to deny the Appellant eligibility for West Virginia School Clothing Allowance (WV SCA) and the Respondent's September 9, 2022 decision to deny the Appellant eligibility for the Supplemental Nutrition Assistance Program (SNAP).

At the hearing, the Respondent appeared by Sarah Rivera, ██████████ County DHHR. The Appellant was represented by ██████████, the Appellant's wife. All witnesses were sworn in and the following exhibits were entered as evidence.

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Case Comments, dated September 6 through September 19, 2022
- D-3 West Virginia Income Maintenance Manual § 4.4.2.C
- D-4 Income Summary and Paystubs, dated July 1, July 15, and July 29, 2022
- D-5 Income Chart, effective April 1, 2022

**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 following Findings of Fact are set forth.

### **FINDINGS OF FACT**

- 1) The Appellant's AG receives monthly unearned Supplemental Security Income (SSI) of \$841 (Exhibit D-2).
- 2) The AG receives \$3,132.74 in monthly gross earned income (Exhibit D-2).
- 3) The Appellant is disabled (Exhibit D-2).

#### **Supplemental Nutrition Assistance Program (SNAP)**

- 4) The Appellant received Supplemental Nutrition Assistance Program (SNAP) benefits for a four-person Assistance Group (AG) (Exhibit D-2).
- 5) On September 9, 2022, the Respondent issued a notice advising the Appellant that the AG was ineligible for SNAP, beginning October 1, 2022, because the AG's income exceeded the SNAP monthly net income limit of \$2,313 for a four-person AG.
- 6) The Respondent applied an Earned Income Disregard and Standard Deduction to determine the AG's countable income.
- 7) The AG's shelter costs include \$725 monthly rent (Exhibit D-2).
- 8) The AG's net adjusted monthly income is \$3,154.20 (Exhibits D-2 and D-4).

#### **West Virginia School Clothing Allowance**

- 9) The Appellant applied for eligibility for WV SCA.
- 10) On August 22, 2022, the Respondent issued a notice advising the Appellant that the AG was ineligible for WV SCA, beginning July 1, 2022, because the AG's income exceeded the WV SCA income limit of \$2,379 for a three-person AG.

### **APPLICABLE POLICY**

**West Virginia Income Maintenance Manual § 4.3.1.30.j provide in pertinent parts:**

For SNAP and WV WORKS, wages are considered earned income.

For WV WORKS, SSI is not considered when determining WV WORKS eligibility.

Supplemental Nutrition Assistance Program

**WVIMM Chapter 4, Appendix A (Effective April 1, 2022) provides in pertinent parts:**

For SNAP eligibility, the maximum net income for a four-person AG is \$2,209.

**WVIMM §§ 4.4.2.B, 4.4.3.B, 4.4.3, provide in pertinent parts:**

The following are the only allowable disregards and deductions for SNAP:

*Earned Income Disregard:* Twenty percent (20%) of gross countable earned income is disregarded.

*Standard Deduction:* Applied to the total non-excluded income counted for the AG, after the application of the Earned Income Disregard. The amount of the Standard Deduction is found in Appendix B.

*Dependent Care Deduction:* Allowed for payment for the care of a child or other dependent, when the expense is necessary for an IG member to accept, continue, or seek employment or training, or pursue education that is preparatory to employment.

*Child Support Deduction:* Allowed for legally obligated child support actually paid by an AG member or disqualified individual to an individual not residing in the same household.

*Homeless Shelter Standard Deduction:* May be applied when a homeless AG incurs any shelter/utility expenses for the month.

*Medical Expenses in Excess of \$35:* Allowed as a medical deduction for AG members who are elderly, which is at least 60, or disabled, as defined in Section 13.15.

*Shelter/Utility Deduction:* After all other exclusions, disregards, and deductions have 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.

After the application of deductions, compare the countable income to the maximum net income in Appendix A for the AG size.

**WVIMM § 4.4.2.C provide in pertinent parts:**

A car payment may be considered a shelter expense when a homeless AG lives in their vehicle.

**WVIMM § 4.4.3.A provides in pertinent parts:**

When at least one AG member is disabled as specified in Section 13.15, eligibility

is determined by comparing the countable income to the maximum net income found in Appendix A. There is no gross income test.

West Virginia SCA

**WVIMM Chapter 4, Appendix A provides in pertinent part:**

For a three-person AG, 130% of the Federal Poverty Level (FPL) is \$2,379.

**WVIMM § 19.4.5 provides in pertinent part:**

All WV WORKS income requirements in Chapter 4 apply. No deductions or disregards are applied. For SCA, income eligibility is based only on the month of July, the program month. If the gross non-excluded income is equal to or greater than 130% of the federal poverty level (FPL), the family is ineligible for WV SCA.

**WVIMM §§ 19.4.2 and 3.4.1.A provides in pertinent part:**

The Eligibility Determination Groups are the same as for WV WORKS. See Section 3.4. The AG includes parents who attend work. A SSI recipient, age 18 or over, cannot be included in the AG.

**DISCUSSION**

The Appellant was denied eligibility for SNAP and WV SCA benefits because the AG's income exceeded eligibility guidelines. The Respondent argued the Appellant's AG's income exceeded SNAP and WV SCA income eligibility guidelines. The Appellant did not contest the amount of earned and unearned income used to determine the AG's SNAP and SCA eligibility, only that an income deduction was not applied for the Appellant's car payment.

Supplemental Nutrition Assistance Program

Because a member of the AG is disabled, the AG's countable income is compared to the maximum net monthly income and there is no gross income test. To be eligible for SNAP, the AG's monthly net adjusted income had to be equal to or below \$2,209. The Respondent had to prove by a preponderance of the evidence that the Appellant's AG's net adjusted income exceeded \$2,209.

The Appellant argued that the Respondent should apply an income deduction for the amount of the Appellant's vehicle payment because the vehicle is primarily used for transporting the Appellant to work. The hearing request reflected that the Appellant disagreed with the Respondent not telephoning her for her scheduled SNAP eligibility telephone review. The evidence reflected that a SNAP eligibility telephone interview was waived during the period the Appellant's interview had been scheduled.

Pursuant to the policy and the evidence, the AG's monthly gross earned income is \$3,132.74 and monthly gross unearned income is \$841. The AG's countable combined monthly earned and unearned income is \$3,973.74. The Respondent correctly applied earned income and standard

deductions. Pursuant to the policy and the evidence, the Appellant's AG shelter costs do not exceed 50% of the remaining countable income; therefore, no additional income deductions were applied.

No evidence was submitted to establish that additional deductions should have been applied to determine the amount of the AG's monthly income. The Appellant argued that the household's car payment should have been considered as an expense when determining the AG's net adjusted income. Pursuant to the policy, a car payment may only be considered as a shelter expense when a homeless AG lives in their vehicle. The evidence reflected that the AG pays rent as a shelter expense. No evidence was submitted to demonstrate that the AG lives in their vehicle. The preponderance of the evidence failed to establish that additional income deductions should have been applied to the AG's income.

The September 9, 2022 SNAP notice indicated that the Appellant's AG's income exceeded the SNAP net income limit of \$2,313. The policy in effect on October 1, 2022 reflected a SNAP net income limit of \$2,209 for a four-person AG. Although the SNAP net income limit on the notice was not consistent with the policy in effect, the evidence established that the AG's monthly net income exceeded the SNAP net income eligibility guidelines reflected in the policy.

#### West Virginia School Clothing Allowance

To be eligible for WV SCA, the AG's gross non-exclude income must be equal to or below 130% of the federal poverty level (FPL). Pursuant to the policy, an SSI recipient cannot be included in the AG and the unearned SSI income is not considered as income when determining eligibility for WV SCA. From October 1, 2021 to September 30, 2022, 130% of the FPL for a three-person AG was \$2,379.

Because the policy does not permit any deductions from the AG's gross income, a deduction for the AG's vehicle payment could not be applied. The AG's monthly gross earned income is \$3,132.74, which exceeds 130% of the FPL for a three-person AG.

### **CONCLUSIONS OF LAW**

- 1) To be eligible for SNAP benefits, beginning October 1, 2022, the AG's monthly maximum net adjusted income had to be equal to or below \$2,209.
- 2) The preponderance of evidence demonstrated that the AG's monthly net adjusted income exceeded the monthly maximum net income limit for a four-person AG to be eligible for SNAP benefits.
- 3) The Respondent correctly denied the Appellant SNAP eligibility based on the AG's income exceeding SNAP income eligibility guidelines for a four-person AG.
- 4) To be eligible for WV SCA benefits, beginning July 1, 2022, the AG's gross non-excluded monthly income must be equal to or below \$2,379.
- 5) The preponderance of evidence demonstrated that the AG's non-excluded monthly income

exceeded the WV SCA income eligibility limit for a three-person AG.

- 6) The Respondent correctly denied the Appellant WV SCA eligibility based on the AG's income exceeding WV SCA income eligibility guidelines.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant's AG SNAP eligibility, beginning October 1, 2022. It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant WV SCA eligibility, beginning July 1, 2022.

ENTERED this 27<sup>th</sup> day of October 2022.

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**Tara B. Thompson, MLS**  
State Hearing Officer