



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
P.O. Box 1736
Romney, WV 26757
304-822-6900**

**Sheila Lee
Interim Inspector General**

October 27, 2022



RE: [REDACTED] v. WVDHHR
ACTION NO.: 22-BOR-2261

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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: Richard Griffey, WVDHHR

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

████████████████████,

Appellant,

v.

Action Number: 22-BOR-2261

**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 convened on October 27, 2022, on an appeal filed October 11, 2022.

The matter before the Hearing Officer arises from the October 4, 2022 decision by the Respondent to decrease the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Richard Griffey, Economic Service Supervisor. The Appellant was self-represented. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 SNAP Budget Screen
- D-3 Appellant Pay History August 15, 2022 through September 15, 2022
- D-4 Case Comments

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 was a recipient of SNAP benefits for a two-person household.
- 2) The Appellant's monthly SNAP allotment was \$178.00.
- 3) On September 14, 2022, the Appellant completed a redetermination for SNAP benefits.
- 4) The Respondent utilized a total monthly gross income for the Appellant in the amount of \$2000.00 for determination of the SNAP allotment (Exhibit D-2)
- 5) The Appellant received shelter cost deduction in the amount of \$431.00. (Exhibit D-2)
- 6) The Appellant did not report the payment of child support at his SNAP redetermination.
- 7) On October 4, 2022, the Respondent issued notice to the Appellant informing him of a reduction in his monthly SNAP benefit from \$178.00 to \$142.00.
- 8) On October 11, 2022, the Respondent determined that the Appellant was paying child support in the amount of \$267.68 per month.
- 9) Effective November 2022, the Respondent's monthly SNAP allotment increases to \$432.00.

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 4.4 documents in pertinent part:

Eligibility is determined and benefits are issued on a monthly basis; therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. The following information applies to earned and unearned income. For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the assistance group (AG). Income is projected; past income is used only when it reflects the income the client reasonably expects to receive during the certification period...

There are two methods for reasonably anticipating the income the client expects to receive. One method uses past income and the other method uses future income. Both methods may be used for the same AG for the same certification period. The method used depends on the circumstances of each source of income. Use past income only when both of the following conditions exist for a source of income:

- Income from the source is expected to continue into the certification period; and
- The amount of income from the same source is expected to be more or less the same. For these purposes, the same source of earned income means income from the same employer, not just the continued receipt of earned income. Use future income when either of the following conditions exist for a source of income:
 - Income from a new source is expected to be received during the certification period. For these purposes, a new source of earned income means income from a different employer; or
 - The rate of pay or the number of hours worked for an old source is expected to change during the certification period. Income that normally fluctuates does not require use of future income. Future income is used for old sources only when the hourly, weekly, monthly, etc. rate of pay changes or the number of hours worked during a pay period increases or decreases permanently.

West Virginia Income Maintenance Manual § 4.4.1.B documents in pertinent part:

The Worker must consider information about the client's income sources before deciding which income to use. The Worker must follow the steps below for each old income source.

Step 1: Determine the amount of income received by all persons in the Income Group (IG) in the 30 calendar days prior to the application/redetermination date, or interview date when the interview is completed on a different day than when the application is received. The appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of application/redetermination. However, if the interview is completed on a different day than when the date the application/redetermination is received, the 30-day look-back period could begin the day before the interview date. The income from this 30-day period is the minimum amount of income that must be considered. When, in the Worker's judgment, future income may be more reasonably anticipated by considering the income from a longer period of time, the Worker considers income for the time West Virginia Income Maintenance Manual Chapter 4 West Virginia Income Maintenance Manual Page 53 Chapter 4 Income period he determines to be reasonable. Whether the Worker considers income from the prior 30 days, or from a longer period of time, all of the income received from that source during that time period must be considered. All pay periods during the appropriate time period must be considered and must be consecutive. If the client provided sufficient

income verification on the date the application/redetermination is received, then additional verification is not required at interview. The year-to-date amounts on check stubs may only be used when the client has verification of all payment amounts whether used or not but is missing one.

Step 2: Determine if the income from the previous 30 days is reasonably expected to continue into the new certification period. If it is not expected to continue, the income from this source is no longer considered for use in the new certification period. If it is expected to continue, determine if the amount is reasonably expected to be more or less the same. If so, the income source is used for the new certification period and treated according to Section 4.4.1.D below. If it is not expected to continue at more or less the same amount, the income source is used for the new certification period and treated according to Section 4.4.1.C below.

Step 3: Record the results of Step 2, including the amount of income, why the source is or is not being considered for the new certification period, the client's statement about continuation of the income from this source, the time period used, and, if more than the previous 30 days, the reason additional income was considered. Once the Worker has determined all of the old sources of income to consider and the time period for which they are considered, he must then determine if any source should be considered for future income.

West Virginia Income Maintenance Manual § 4.4.2.B.4 documents in pertinent part:

A deduction is allowed for legally obligated child support actually paid by an AG member or disqualified individual to an individual not residing in the same household. In the State of West Virginia, legally obligated means the child support is the result of a circuit or magistrate court order, an order issued by administrative process, or a legally enforceable separation agreement. For orders issued in other states, any order that would be upheld by a Judge in a court of law is considered legally obligated. Legally obligated child support includes cash or in-kind payments, payments on arrearages, and payments for medical insurance premiums to cover the dependent child. If the dependent child is included in the parent's medical coverage at no extra cost, no deduction is allowed. If the parent must also enroll in order to cover the child, the total premium amount is used as a deduction. Alimony, spousal support, and payments made in accordance with a property settlement are not deducted. A deduction is allowed based only on payments actually made, not the legally obligated amount, and may not exceed the legal obligation.

West Virginia Income Maintenance Manual § 4.4.2.B.7

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.

West Virginia Income Maintenance Manual § 4.4.2.C documents in pertinent part:

Items considered in arriving at shelter expenses are the continuing amounts of:

- Rent. Security or damage deposits are not shelter expenses.
- Mortgage payments. This includes second mortgages and home equity loans and any other loans for which the dwelling is used as collateral.
- Interest on mortgage payments.
- Condominium and association fees, regardless of purpose for the fees.
- Payments to an escrow account established to pay property taxes and homeowner's insurance.
- Property taxes and special tax assessments on the structure and lot required by State or local law. This does not include assessments such as police and fire fees, unless the fee is based on property valuation.
- Insurance on the structure and lot. This does not include insurance on furniture or personal belongings. If the insurance cost on the structure and the cost on the personal belongings/furniture cannot be identified separately, the entire insurance payment is allowed.
- Cost of repairing the home that was damaged or destroyed due to a natural disaster or misfortune including, but not limited to, fire, flood, or freezing temperatures. This does not include charges that will be or have been reimbursed from any source such as insurance, private agency, etc.
- A car payment when a homeless AG lives in their vehicle.
- Insurance on the vehicle itself when a homeless AG lives in their vehicle.

DISCUSSION

Policy governs that a SNAP recipient's monthly amount of income, after deductions and disregards, is utilized to determine an assistance group's financial eligibility. The monthly amount of SNAP benefit is calculated by subtracting 30% of a household's net income from the maximum monthly benefit for the appropriate assistance group size. The Respondent had to prove by a preponderance of the evidence that the Appellant's monthly income, after income deductions and disregards resulted in a reduction of the Appellant's monthly SNAP benefit.

On September 14, 2022, the Appellant completed a redetermination for SNAP benefits. In order to determine the Appellant's financial eligibility, the Respondent requested a thirty-day period of income between the dates of August 15, 2022 through September 13, 2022. The Appellant provided income in the following amounts-September 15, 2022-82.75 hours for a gross pay of \$827.50, August 30, 2022-100 hours for a gross pay of \$1000.00 and August 15, 2022-40.50 hours for a gross pay of \$405.00. Richard Griffey, Economic Service Supervisor, testified that the September 15, 2022 income was disregarded because it was determined to be outside of the requested thirty-day "look back" period. Additionally, Mr. Griffey reported that the August 15, 2022 income was disregarded because the Appellant was off work during that timeframe. Mr.

Griffey indicated that he spoke with the Appellant's employer and was informed that the Appellant works at least 80 hours per pay period.

At the time of redetermination, the Appellant did not report child support payments, but indicated his responsibility for a monthly payment of \$267.00 in the hearing request dated October 11, 2022. Mr. Griffey testified that he verified with the Bureau of Child Support Enforcement that the Appellant pays \$267.68 per month and included that the amount toward the November 2022 SNAP benefit. Additionally, the Appellant's hearing request noted a monthly shelter cost payment of \$431.00. Mr. Griffey indicated that the Appellant's shelter cost were included in the October 2022 SNAP calculation; however, they were not demonstrated in the notification letters. Mr. Griffey purported that with the inclusion of the child support payments, the Appellant's monthly SNAP benefit increased to \$432.00 effective November 2022.

The Appellant offered no dispute to the calculations and was satisfied that the monthly SNAP benefit would increase.

In determination of the Appellant's October 2022 SNAP allotment, the Respondent determined the Appellant's gross monthly income to be \$2000.00 (Exhibit D-2). This income was determined from the Appellant's August 30, 2022 income verification of \$1000.00 multiplied by the semi-monthly pay rate calculation of 2. Testimony revealed that communications with the Appellant's employer on October 11, 2022, indicated that the Appellant works "at least 80 [hours] per pay period". Based on the income evidence provided during the hearing, it is reasonable to assume that the Appellant is employed at an hourly rate of \$10.00. Therefore, the Appellant's gross monthly income should have been determined at an amount of \$1600.00 (160 monthly hours (80 hours per pay period multiplied by 2) multiplied by \$10.00 rate of pay for an amount of \$800.00 per pay period multiplied by 2). Based on this income, the Appellant's monthly SNAP allotment for the month of October is determined to be \$262.00. [This amount is determined by the Appellant's gross monthly income of \$1600.00 minus the \$400.00 earned income deduction equals \$1200.00. Subtracting the \$193.00 standard deduction equals an adjusted income of \$1007.00. After subtraction of a shelter/utility deduction of \$162.50, the Appellant's net income is determined to be \$844.50. Thirty percent of the net income is determined to be \$253.35 (\$844.50 x 30%). The Appellant's October 2022 SNAP allotment is determined to be \$262.00 (\$516.00 Maximum SNAP Allotment for a two-person household minus \$253.35 ((Thirty percent of net adjusted income)).]

Because the Respondent utilized the incorrect gross monthly amount of the Appellant's income, the decision to reduce the October 2022 SNAP entitlement cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, monthly income is utilized to determine an assistance group SNAP eligibility.
- 2) The Appellant's reported monthly income is determined to be \$1600.00 as verified by the Appellant's employer on October 11, 2022.

- 3) The Department utilized an incorrect gross monthly income amount to determine the Appellant's October 2022 SNAP entitlement.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to reduce the Appellant's October 2022 SNAP entitlement. The matter is hereby **REMANDED** for calculation and issuance of SNAP benefits due to the Appellant for October 2022.

ENTERED this ____ day of October 2022.

Eric L. Phillips
State Hearing Officer