



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of the Inspector General  
Board of Review**

**Jeffery H. Coben, MD  
Interim Cabinet Secretary**

**Sheila Lee  
Interim Inspector General**

February 21, 2023



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-1054

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: Recourse to Hearing Decision  
Form IG-BR-29

cc: Leslie Riddle, DHHR

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

[REDACTED],

**Appellant,**

v.

**Action Number: 23-BOR-1054**

**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 [REDACTED]. 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 February 7, 2023.

The matter before the Hearing Officer arises from the November 7, 2022 decision by the Respondent to terminate SNAP benefits due to excessive income.

At the hearing, the Respondent appeared by Leslie Riddle. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Excerpts from the West Virginia Income Maintenance Manual
- D-2 Notice of decision, dated November 7, 2022
- D-3 Excerpt from the West Virginia Income Maintenance Manual

**Appellant's Exhibits:**

- A-1 Excerpts of communication via emails and text messages
- A-2 Copies of the Appellant's pay stubs
- A-3 Additional communication excerpts

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 SNAP recipient, included in a SNAP assistance group (AG) with her adult son.
- 2.) There are no elderly or disabled individuals in the Appellant's AG.
- 3.) The Appellant completed a review of her SNAP eligibility in October 2022.
- 4.) At the time of her October 2022 SNAP review, the Appellant reported income for herself but not for her adult son.
- 5.) The Respondent received an alert through a data exchange, indicating the onset of employment income for the Appellant's adult son.
- 6.) The Respondent requested and received income verification for the Appellant's son.
- 7.) The Respondent issued a notice (Exhibit D-2), dated November 7, 2022, to the Appellant advising her that her SNAP benefits would stop at the end of November 2022.
- 8.) This notice (Exhibit D-2) provided the reason for SNAP termination as, "Income is more than the gross income limit for you to receive benefits."
- 9.) The Appellant's household had monthly gross income of \$3076.76, which exceeded the gross income limit of \$1984 for a SNAP AG of 2. (Exhibit D-2)

### **APPLICABLE POLICY**

The Code of Federal Regulations, 7 CFR §273.9, provides the SNAP income limits, as follows:

#### **§ 273.9 Income and deductions.**

(a) ***Income eligibility standards.*** Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for SNAP. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for SNAP. Households which are categorically eligible as defined in § 273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty

levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(1) The gross income eligibility standards for SNAP shall be as follows:

(i) The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be 130 percent of the Federal income poverty levels for the 48 contiguous States and the District of Columbia.

(ii) The income eligibility standards for Alaska shall be 130 percent of the Federal income poverty levels for Alaska.

(iii) The income eligibility standards for Hawaii shall be 130 percent of the Federal income poverty levels for Hawaii.

At § 273.9(a)(4), the regulations provide:

The monthly gross and net income eligibility standards for all areas will be prescribed in tables posted on the FNS web site, at [www.fns.usda.gov/snap](http://www.fns.usda.gov/snap)

The FNS web site (retrieved February 21, 2023) provides income eligibility limits, effective from October 1, 2022, through September 30, 2023, listing the SNAP monthly gross income limit for a household size of 2 (within the 48 contiguous states and the District of Columbia) as \$1984.

## **DISCUSSION**

The Appellant has contested the Respondent's decision to terminate her SNAP benefits based on its determination that the Appellant's household income exceeded the SNAP income limit. The Respondent must show by a preponderance of the evidence that it properly terminated SNAP benefits on this basis.

The Respondent maintains data exchanges with other government agencies to share relevant information, including the onset of employment. The Respondent worker assigned to the Appellant's case received information through a data exchange that the Appellant's adult son had started employment. Upon verification of the income amounts, the Respondent determined the Appellant was no longer eligible for SNAP due to excessive income. The Respondent mailed notification to the Appellant (Exhibit D-2) advising her that SNAP benefits would be terminated on this basis.

The Appellant testified that her appeal was initially based on dispute of the income deductions and disregards allowed in her case but that after discussions with her worker, she no longer had no dispute of these deductions or disregards. The Appellant provided no arguments, evidence, or testimony regarding income deductions or disregards. The Appellant provided documents (Exhibit A-2) showing her earned income from employment, but not her son's income. The Respondent's notice of decision (Exhibit D-2) lists its determination of the Appellant's gross monthly household

income (\$3076.76) and the SNAP gross income limit (\$1984), but the Respondent did not offer further detail on its income calculation. Reliable testimony revealed the Respondent calculated the Appellant's household income based on income verification for both the Appellant and her adult son provided by the Appellant. Without complete income verification from the Appellant to show an alternate household income determination, the Respondent's calculation of \$3076.76 is more likely true than not.

The Respondent was unable to provide a policy citation that supported its claim. Policy excerpts provided by the Respondent were entered into evidence, but all evidence is given weight based on its reliability and relevance. The Appellant's monthly gross household income of \$3076.76 exceeds either the correct income limit of \$1984, or the incorrect amount shown in the outdated policy citation (Exhibit D-3) provided by the Respondent, but the Respondent only confused the matter by providing irrelevant policy. The Respondent is reminded to match its applicable policy provisions with the time period of the negative action or actions under appeal.

The correct income limits are verified by the Code of Federal Regulations, showing a gross income limit of \$1984 for a household size of two (2) within the 48 contiguous U.S. states (including West Virginia). The Appellant's household does not include an elderly or disabled individual and is therefore subject to "...both the net income eligibility standards and the gross income eligibility standards for SNAP." The Respondent was correct to terminate the Appellant's SNAP benefits due to excessive gross income.

Documents intended to show communication (Exhibits A-1 and A-3) between the parties also called into question the date of hearing request provided by the Respondent. The Respondent advised the Board of Review that it received a verbal request for hearing on January 11, 2023. The Appellant provided a printed image of a hearing request form signed by the Appellant on November 28, 2022. The communication documents (Exhibits A-1 and A-3) provided by the Appellant are unreliable because: the communications appear to be incomplete or excerpted; the communications are directed to a user-generated contact, which may or may not be the purported recipient of the message; the communications appear to include software-generated transcriptions of voice mail messages, which may or may not be accurate; and – due to the quantity of one-sided communications presented by the Appellant – the possibility that communications were prepared but not delivered. The Appellant prepared a hearing request form with a November 28, 2022 date, but there is no indication that it was delivered to the Respondent. All of the email messages provided by the Appellant show what she prepared, without any replies from the Respondent or any forwarded prior emails from the Respondent. Not only does this present an inaccurate picture of the full communication between the parties, it calls into question whether the emails were ever delivered by the Appellant. Without reliable evidence that alluded to a November 28, 2022 hearing request date, or showed actual delivery of the written hearing request prepared with that date, the January 11, 2023 hearing request date will remain the date of record. The hearing request date has no bearing on the hearing outcome in this case.

### **CONCLUSIONS OF LAW**

- 1.) Because the Appellant's household does not include elderly or disabled individuals, it is subject to both a gross income limit and a net income limit.

- 2.) Because the Appellant's monthly gross household income (\$3076.76) exceeds the gross income limit of \$1984 for her household size of two (2), the Respondent must terminate the Appellant's SNAP benefits.

**DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's SNAP benefits due to excessive household income.

**ENTERED this \_\_\_\_\_ day of February, 2023.**

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**Todd Thornton  
State Hearing Officer**