



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

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

**Sheila Lee
Interim Inspector General**

June 13, 2023



RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-1837

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Leslie Riddle, [REDACTED] DHHR

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

██████████,

Appellant,

v.

Action Number: 23-BOR-1837

**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 June 13, 2023, on an appeal filed on May 25, 2023.

The matter before the Hearing Officer arises from the Respondent's determination of the Appellant's monthly Supplemental Nutrition Assistance Program (SNAP) allotment.

At the hearing, the Respondent appeared by Leslie Riddle, Economic Service Worker. The Appellant was self-represented. Appearing as a witness for the Appellant was ██████████. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Board of Review Scheduling Order (page 2 of 5), Hearing Request Notification Form, Hearing Request received May 25, 2023, and West Virginia Income Maintenance Manual Chapter 4 Appendix A
- D-2 SNAP Allotment Determination Screen Print

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 is a recipient of SNAP benefits.
- 2) The Appellant receives Social Security of \$1,572 monthly.
- 3) The Appellant pays for homeowners' insurance, real property taxes, and her home's heating and cooling costs.
- 4) The Respondent pays the Appellant's monthly Medicare premium through the Medicare Premium Assistance program.
- 5) The Respondent calculated the Appellant's monthly SNAP allotment as \$23 a month.
- 6) The Appellant contested the Respondent's determination of her SNAP allotment.

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §273.10(e) explains how net SNAP income and benefit levels are calculated:

(A) Add the gross monthly income earned by all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income. Net losses from the self-employment income of a farmer shall be offset in accordance with §273.11(a)(2)(iii).

(B) Multiply the total gross monthly earned income by 20 percent and subtract that amount from the total gross income; or multiply the total gross monthly earned income by 80 percent and add that to the total monthly unearned income, minus income exclusions. If the State agency has chosen to treat legally obligated child support payments as an income exclusion in accordance with §273.9(c)(17), multiply the excluded earnings used to pay child support by 20 percent and subtract that amount from the total gross monthly income.

(C) Subtract the standard deduction.

(D) If the household is entitled to an excess medical deduction as provided in §273.9(d)(3), determine if total medical expenses exceed \$35. If so, subtract that portion which exceeds \$35.

(E) Subtract allowable monthly dependent care expenses, if any, as specified under §273.9(d)(4) for each dependent.

(F) If the State agency has chosen to treat legally obligated child support payments as a deduction rather than an exclusion in accordance with §273.9(d)(5), subtract allowable monthly child support payments in accordance with §273.9(d)(5).

(G) Subtract the homeless shelter deduction, if any, up to the maximum of \$143

(H) Total the allowable shelter expenses to determine shelter costs, unless a deduction has been subtracted in accordance with paragraph (e)(1)(i)(G) of this section. Subtract from total shelter costs 50 percent of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction according to paragraph (e)(1)(i)(I) of this section.

(I) Subtract the excess shelter cost up to the maximum amount allowed for the area (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other applicable deductions. Households not subject to a capped shelter expense shall have the full amount exceeding 50 percent of their net income subtracted. The household's net monthly income has been determined.

(ii) In calculating net monthly income, the State agency shall use one of the following two procedures:

(A) Round down each income and allotment calculation that ends in 1 through 49 cents and round up each calculation that ends in 50 through 99 cents;

(B) Apply the rounding procedure that is currently in effect for the State's Temporary Assistance for Needy Families (TANF) program. If the State TANF program includes the cents in income calculations, the State agency may use the same procedures for SNAP income calculations. Whichever procedure is used, the State agency may elect to include the cents associated with each individual shelter cost in the computation of the shelter deduction and round the final shelter deduction amount. Likewise, the State agency may elect to include the cents associated with each individual medical cost in the computation of the medical deduction and round the final medical deduction amount.

(2) Eligibility and benefits.

(i)(A) Households which contain an elderly or disabled member as defined in §271.2, shall have their net income, as calculated in paragraph (e)(1) of this section (except for households considered destitute in accordance with paragraph (e)(3) of this section), compared to the monthly income eligibility standards defined in §273.9(a)(2) for the appropriate household size to determine eligibility for the month.

(B) In addition to meeting the net income eligibility standards, households which do not contain an elderly or disabled member shall have their gross income, as calculated in accordance with paragraph (e)(1)(i)(A) of this section, compared to the gross monthly income standards defined in §273.9(a)(1) for the appropriate household size to determine eligibility for the month.

(ii)(A) Except as provided in paragraphs (a)(1), (e)(2)(iii) and (e)(2)(vi) of this section, the household's monthly allotment shall be equal to the maximum SNAP allotment for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. If 30 percent of the household's net income ends in cents, the State agency shall round in one of the following ways:

(1) The State agency shall round the 30 percent of net income up to the nearest higher dollar; or

(2) The State agency shall not round the 30 percent of net income at all. Instead, after subtracting 30 percent of net income from the appropriate Thrifty Food Plan, the State agency shall round the allotment down to the nearest lower dollar.

West Virginia Income Maintenance Manual §4.4.3 explains calculating net income and benefit levels:

4.4.3.A Determining Eligibility

When no AG member is elderly or disabled, the gross income must be equal to, or less than, the gross income limit in Appendix A. If so, the AG qualifies for the disregards and deductions. If the gross income exceeds the amount in Appendix A, the AG is ineligible. When at least one AG member is elderly, which is at least age 60, or disabled, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. There is no gross income test.

4.4.3.B Determining Countable Income

The following steps are used to determine countable income for cases meeting the eligibility tests above.

- Step 1: Combine monthly gross countable earnings and monthly gross profit from self-employment.
- Step 2: Deduct 20% of Step 1.
- Step 3: Add the gross countable unearned income
- Step 4: Subtract the Standard Deduction (\$193)
- Step 5: Subtract allowable Dependent Care Expenses
- Step 6: Subtract the amount of legally obligated child support actually paid.
- Step 7: Subtract the Homeless Shelter Standard Deduction found in Appendix B.
- Step 8: Subtract allowable medical expenses in excess of \$35
- Step 9: Calculate 50% of the remaining income and compare it to the actual monthly shelter/SUA amount. The Heating/Cooling SUA is \$435.
- Step 10: If the shelter/SUA costs are equal to or less than the amount found in step 9, no further computation is needed, the amount from step 8 is the countable

income. If the shelter/SUA costs are greater than step 9, the amount in excess of 50% is deducted to arrive at the countable income. Elderly/disabled households are not subject to the shelter/utility cap.

Step 11: Compare the countable income to the maximum net income in Appendix A for the AG size.

4.4.3.C Determining the Amount of Benefit

To determine the SNAP allotment, find the countable income and the maximum benefit allotment for the AG in Appendix A. One- and two-person AGs who meet the gross and net income test or who are categorically eligible, as defined in Section 1.4.17.C automatically receive the minimum SNAP benefit, unless it is a prorated benefit. No benefits are issued to any AG eligible for an initial, prorated amount less than \$10.

The Worker will determine the benefit amount by using the following method. The eligibility system also uses this method. To determine the SNAP allotment, find the countable income and the maximum benefit allotment for the AG in Appendix A. The Worker will determine the benefit amount by using the following method. The eligibility system also uses this method.

- Multiply net income by 30% (Round up)
- Subtract 30% of net income as calculated above from the maximum monthly benefit for the AG size.

West Virginia Income Maintenance Manual Chapter 4 Appendix A lists the maximum SNAP allotment for a one-person assistance group as \$281.

DISCUSSION

Pursuant to agency policy and federal regulations, monthly SNAP allotments are determined by an assistance group's income, after all allowable deductions have been applied.

The Appellant's countable net income is \$1,379. This is determined using the steps found in policy: \$1,572 Social Security income minus \$193 standard deduction = \$1,379. The total shelter and SUA amount of \$485.77 (\$17.32/month in property taxes plus \$33.35/month in homeowners' insurance plus \$435 Heating/Cooling Standard) is compared to 50% of the remaining income (\$1,379 divided by 2 equals \$689.50). Because the total shelter/SUA costs for the Appellant does not exceed 50% of the remaining income, she is not entitled to the shelter/SUA deduction that exceeds this amount. The Appellant's total countable income for SNAP is \$1,379.

The Appellant's monthly SNAP allotment is determined by multiplying the countable net income by 30% (\$1,379 x 30% equals \$413.70). This amount is subtracted from the maximum coupon allotment for a one-person AG (\$281 minus \$413.70 equals \$0). Because the Appellant meets the definition of categorical eligibility, she is entitled to receive the minimum SNAP issuance amount for her household size of \$23.

The Appellant contended that she pays \$113.50 a month for homeowners' insurance and \$400 yearly for property taxes. The Appellant did not provide evidence to support that her shelter costs

were more than what was listed in her case record.

Whereas the Respondent correctly calculated the Appellant's monthly SNAP allotment based on the Appellant's income and allowable deductions, the Respondent's determination of the Appellant's monthly SNAP allotment is affirmed.

CONCLUSIONS OF LAW

- 1) Monthly SNAP allotments are determined by an assistance group's countable income, after all allowable deductions have been applied.
- 2) The Appellant's net income, after applying the income deductions found in policy, is \$1,379.
- 3) Thirty percent of the Appellant's countable net income is compared to the maximum coupon allotment for the size of her assistance group.
- 4) The Appellant is categorically eligible for the minimum SNAP issuance amount of \$23.
- 5) The Respondent correctly calculated the Appellant's monthly SNAP allotment.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's determination of the Appellant's monthly Supplemental Nutrition Assistance Program allotment.

ENTERED this 13th day of June 2023.

Kristi Logan
Certified State Hearing Officer