



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

**Sherri A. Young, DO, MBA, FAAFP
Interim Cabinet Secretary**

**Christopher G. Nelson
Interim Inspector General**

August 3, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-2027

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: Chelsea Zerkle, Department Representative

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

IN THE MATTER OF:

ACTION NO.: 23-BOR-2027

██████████,

Appellant,

v.

**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 July 20, 2023, on a timely appeal filed on June 23, 2023.

The matter before the Hearing Officer arises from the June 16, 2023 decision by the Respondent to establish the level of SNAP benefits.

At the hearing, the Respondent appeared by Chelsea Zerkle. The Appellant was self-represented. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- | | |
|-----|--|
| D-1 | West Virginia Income Maintenance Manual excerpts |
| D-2 | Screen prints regarding the Appellant's case from the Respondent's data system |

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 in a one (1) person assistance group (AG).
- 2) The Respondent mailed the Appellant a letter advising she was eligible for \$126 in monthly SNAP benefits.
- 3) The Appellant has Supplemental Security Income (SSI) of \$914 monthly.
- 4) The Appellant pays utilities including electric and cell phone service.
- 5) The Appellant is eligible for the Heating/Cooling Standard (HCS) Standard Utility Allowance (SUA) deduction.
- 6) The Appellant pays \$130 monthly in shelter expenses.

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), Chapter 4, §4.4.2, addresses SNAP income disregards and deductions, including the types of Standard Utility Allowances (SUA).

WVIMM § 4.4.2.C.1 provides in pertinent parts:

SUAs are fixed deductions that are adjusted yearly to allow for fluctuations in utility expenses.

..

These deductions are the Heating/Cooling Standard (HCS), the Non-Heating/Cooling Standard (NHCS), and the One Utility Standard (OUS). The current SUA amounts are found in Appendix B.

AGs that are obligated to pay from their resources a utility expense that is billed separately from their shelter expenses are eligible for an SUA deduction...

Items that are considered utilities include, but are not limited to:

..

- Electricity

..

- The basic rate for one telephone, either landline or cellular service...

AGs that are obligated to pay a heating or cooling expense that is billed on a regular basis are eligible for the HCS...

Code of Federal Regulations (CFR) 7 CFR § 273.9(d)(6)(iii)(A) provides in pertinent parts:

(iii) *Standard utility allowances.*

(A) With FNS approval, a State agency may develop the following standard utility allowances (standards) to be used in place of actual costs in determining a household's excess shelter deduction: an individual standard for each type of utility expense; a standard utility allowance for all utilities that includes heating or cooling costs (HCSUA); and, a limited utility allowance (LUA) that includes electricity and fuel for purposes other than heating or cooling, water, sewerage, well and septic tank installation and maintenance, telephone, and garbage or trash collection. The LUA must include expenses for at least two utilities. However, at its option, the State agency may include the excess heating and cooling costs of public housing residents in the LUA if it wishes to offer the lower standard to such households. The State agency may use different types of standards but cannot allow households the use of two standards that include the same expense. In States in which the cooling expense is minimal, the State agency may include the cooling expense in the electricity component. The State agency may vary the allowance by factors such as household size, geographical area, or season. Only utility costs identified in paragraph (d)(6)(ii)(C) of this section must be used in developing standards.

DISCUSSION

The Appellant requested a fair hearing to appeal the Respondent's decision to establish the level of SNAP benefits for the Appellant. The Respondent must show by a preponderance of the evidence that it correctly determined the SNAP benefits of the Appellant.

The Respondent did not provide a notice letter as part of its evidence. There was no dispute by the Appellant that the Respondent did not properly notice its action to determine the Appellant's SNAP benefits.

The Appellant receives SNAP benefits in a household size, or AG size, of one (1). There was no dispute of the household size, or the Appellant's income source of SSI, or the monthly amount of this income. The Appellant contended that the Respondent was not correctly counting her utility amounts.

The Appellant testified that her electric bill was high and that the Respondent worker did not accept her cell phone bill. Because the Appellant pays for electric and a phone bill, she meets the criteria for a Standard Utility Allowance (SUA), specifically the Heating/Cooling Standard (HCS). The use of the SUA is required by policy and its amount is set by policy. The Respondent correctly

determined the sole element of the SNAP determination process that was disputed by the Appellant.

Because the reliable testimony and evidence revealed no disputed SNAP calculation element in error, the Respondent correctly determined the level of SNAP benefits for the Appellant. The Respondent's determination of the Appellant's SNAP allotment is affirmed.

CONCLUSIONS OF LAW

- 1) Because the Appellant pays for the utilities specified by policy, she is eligible for a Standard Utility Allowance (SUA).
- 2) Because the Appellant pays for a heating and cooling expense, she is eligible for the SUA referred to as the Heating/Cooling Standard (HCS).
- 3) Because the Respondent used the SUA/HCS in calculating the Appellant's SNAP benefits, the Respondent correctly determined this element of the SNAP calculation process.
- 4) Because there were no other disputed elements of the SNAP determination process, the Respondent correctly determined the level of SNAP benefits for the Appellant.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to establish the level of the Appellant's SNAP benefits.

ENTERED this ____ day of August 2023.

Todd Thornton
State Hearing Officer