



**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**

September 8, 2023



RE: [REDACTED] **v. WVDHHR**
ACTION NO.: 23-BOR-2515 SNAP and 23-BOR-2516 Medicaid

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: Recourse to Hearing Decision
Form IG-BR-29

cc: Carla Addair-Pruitt, WVDHHR

P.O. Box 1736 • Romney, WV 26757
304-822-6900 • <https://www.wvdhhr.org/oig/bor.html> •
Eric.L.Phillips@wv.gov • DHHROIGBORE@WV.GOV

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

██████████,

Appellant,

v.

**Action Number: 23-BOR-2515 SNAP
23-BOR-2516 Medicaid**

**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 September 6, 2023, on appeal filed August 15, 2023.

The matter before the Hearing Officer arises from the August 8, 2023 decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program benefits and Medicaid benefits.

At the hearing, the Respondent appeared by Carla Addair-Pruitt, Economic Service Supervisor. Appearing as a witness for the Respondent was Matthew Bradley, Front End Fraud Unit Investigator. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Front-End Fraud Unit Investigative Findings
- D-1a West Virginia Income Maintenance Manual § 10.4.2.B.1
- D-2 Hearing Request
- D-2a Notice of Decision dated August 8, 2023
- D-3 CSLR dated March 13, 2023
- D-4 Application for Low Income Energy Assistance Program (LIEAP) dated January 12, 2023
- D-5 Application for Emergency Assistance dated January 12, 2023

- D-6 Application for Emergency Assistance dated January 12, 2023*
- D-7 Case Summary
- D-8 Letter from [REDACTED] Bank dated April 12, 2022
- D-9 Electronic Mail Bank Account Request dated July 28, 2023
- D-10 Bank Account Information
- D-11a West Virginia Income Maintenance Manual Chapter § 1.2.4
- D-11b West Virginia Income Maintenance Manual Chapter 4 pages 20-21
- D-11c West Virginia Income Maintenance Manual Chapter § 11.2.3.A.2

*Duplicate Evidence

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 Supplemental Nutrition Assistance Program (SNAP) benefits and Adult Medicaid benefits.
- 2) The Appellant reported no income available to his household of one. (Exhibit D-7)
- 3) The Respondent received an anonymous complaint alleging that the Defendant may have unreported income available to his household, which was assigned for investigation to the Respondent's Front-End Fraud Unit (FEFU). (Exhibit D-1)
- 4) The FEFU investigation concluded that the Appellant was the sole owner of a checking account at [REDACTED] Bank. (Exhibit D-1)
- 5) The FEFU investigation concluded that the Appellant had access to money deposited in the account at [REDACTED] Bank in the amount of \$2741.00 for May 16, 2023, \$3,940.36 for June 20, 2023, and \$2,558.24 for July 18, 2023. (Exhibit D-1)
- 6) The Respondent calculated a three-month average of income from the [REDACTED] Bank account in the amount of \$3079.86. (Exhibit D-2a).
- 7) On August 8, 2023, the Respondent issued a Notice of Decision to the Appellant informing him that his SNAP and Medicaid assistance would terminate effective September 1, 2023, because his income exceeded the income limits for each program. (Exhibit D-2a)

- 8) The Appellant is the sole owner of the checking account with [REDACTED] Bank.
- 9) The Appellant receives financial assistance from other individuals monthly.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 3.7.3 states, in pertinent part:

The needs group is the number of individuals included in the Modified Adjusted Gross Income (MAGI) household size based upon the MAGI rules for counting household members.

The applicant's MAGI household includes themselves, each individual he expects to claim as a tax dependent, and his spouse if residing with the tax filer.

West Virginia Income Maintenance Manual Chapter 4.7.1

Income of each member of the individual's MAGI household is counted.

West Virginia Income Maintenance Manual Chapter 4, Appendix A, states, in pertinent part:

For a one-person Assistance Group, 133% of the FPL is \$1616.

West Virginia Income Maintenance Manual Chapter 4.3.1 documents in pertinent part:

21. DEPOSITS INTO A BANK ACCOUNT (of money belonging to someone other than a member of the AG or disqualified individual)

- The Portion of a Deposit Intended for the Use of the AG or Disqualified Person
- The Portion of a Deposit Intended for the Use of a Non-AG Group Member

Is considered unearned income for SNAP and AFDC-Related Medicaid

West Virginia Income Maintenance Manual Chapter 10.4.2.B.1 documents in pertinent part:

Action must be taken for all AGS when information is received from a sources that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the primary source of the information. The only sources considered verified upon receipt are:

Investigations and Fraud Management (IFM) findings of an investigation.

West Virginia Income Maintenance Manual Chapter 1.2.4

The client's responsibility is to provide complete and accurate information about his circumstances so that the worker is able to make a correct determination about his eligibility.

West Virginia Income Maintenance Manual Chapter 4.4

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 is one exception, which requires use of actual income instead of conversion or proration.

Code of Regulations 273.9 documents in pertinent part:

Unearned income shall include, but not be limited to:

7 CFR 273.9(b)(2)

(i) Assistance payments from Federal or federally aided public assistance programs, such as supplemental security income (SSI) or Temporary Assistance for Needy Families (TANF); general assistance (GA) programs (as defined in [§ 271.2](#)); or other assistance programs based on need. Such assistance is considered to be unearned income even if provided in the form of a vendor payment (provided to a third party on behalf of the household), unless the vendor payment is specifically exempt from consideration as countable income under the provisions of [paragraph \(c\)\(1\)](#) of this section. Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, shall be considered unearned income.

(ii) Annuities; pensions; retirement, veteran's, or disability benefits; worker's or unemployment compensation including any amounts deducted to repay claims for intentional program violations as provided in [§ 272.12](#); old-age, survivors, or social security benefits; strike benefits; foster care payments for children or adults who are considered members of the household; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least 20 hours a week.

(iii) Support or alimony payments made directly to the household from nonhousehold members.

(iv) Scholarships, educational grants, deferred payment loans for education, veteran's educational benefits and the like, other than educational assistance with a work requirement, in excess of amounts excluded under [§ 273.9\(c\)](#).

(v) Payments from Government-sponsored programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit.

(vi) Monies which are withdrawn or dividends which are or could be received by a household from trust funds considered to be excludable resources under [§ 273.8\(e\)\(8\)](#). Such trust withdrawals shall be considered income in the month received, unless otherwise exempt under the provisions of [paragraph \(c\)](#) of this section. Dividends which the household has the option of either receiving as income or reinvesting in the trust are to be considered as income in the month they become available to the household unless otherwise exempt under the provisions of [paragraph \(c\)](#) of this section.

DISCUSSION

The Respondent terminated the Appellant's Supplemental Nutrition Assistance Program (SNAP) and Medicaid assistance due to the findings of a Front-End Fraud Unit (FEFU) investigation. The Appellant contests the August 8, 2023 decision of the Respondent to terminate assistance based on excessive income. The Respondent must prove by a preponderance of the evidence that the Appellant had access to unearned income which exceeded the income limits set forth by policy.

An anonymous complaint was forwarded to the Respondent's FEFU indicating that the Appellant had unearned income, which was not reported at prior redeterminations for program eligibility. On August 4, 2023, the FEFU investigation concluded, revealing that after review of the Appellant's banking records with [REDACTED] Bank, the Appellant had access to unearned income. (Exhibit D-1)

Matthew Bradley, FEFU Investigator, completed the investigation based on the unreported income complaint. Mr. Bradley presented bank account statements from [REDACTED] Bank, along with deposit slips (Exhibit D-10) which demonstrated that the Appellant received regular monetary deposits from an undocumented source from February 2023 through July 2023. Bank account information documents that the Appellant was the sole owner and lists his address as [REDACTED]. Mr. Bradley testified that monetary deposits were issued to the Appellant's account in the amounts of \$2741.00 for May 2023, \$3940.36 for June 2023, and \$2558.24 for July 2023.

The Respondent utilized a three-month average of account deposits from May 2023 through July 2023 in the amount of \$3079.86 to determine the Appellant's continued eligibility for SNAP and Medicaid assistance. The average monthly income amount of \$3079.86 exceeded the SNAP gross income limit for one person of \$1473, SNAP net income test of \$1133, and \$1616 or 133% of the

Federal Poverty Level for Medicaid eligibility determination. (Exhibit D-2a)

The Appellant offered no contention to the calculation of income utilized in the determination of his SNAP and Medicaid eligibility but disputed the Respondent's use of the monetary deposits into his checking account. The Appellant proffered testimony indicating that he is disabled and unable to work due to injuries sustained in a vehicular accident. Due to his inability to participate in a work activity, the Appellant has applied for disability benefits with the Social Security Administration. The Appellant explained that while he has no employment income, he receives assistance from family and friends for vehicle and mortgage payments through [REDACTED] and other means of transfer. Additionally, the Appellant indicated that he sells guns and tools, which he purchased when he was employed for extra income. The Appellant disputes the Respondent's determination that the sale of his own property should be considered income. The Appellant opines that income is "new money that you get from work that you have to pay taxes on" and "selling something that you already have that has been paid for with income that you got [sic] in the past is not new income." The Appellant contended that the bank account with [REDACTED] Bank is jointly owned with his partner, [REDACTED].

Policy dictates that monetary deposits from another person into a bank account are considered unearned income for SNAP and Medicaid assistance. The Appellant's admission that he obtains financial support from others through [REDACTED] and other monetary transactions is supported in the financial evidence and should be utilized in the eligibility determination. Because the Appellant's unearned income exceeded the income limits set forth by policy, the Respondent was correct in its decision to terminate SNAP and Medicaid assistance.

CONCLUSIONS OF LAW

- 1) Money deposited into a bank account from other sources is considered unearned income for the eligibility determination of SNAP and Medicaid assistance.
- 2) The Appellant received financial support which was deposited monthly into his checking account.
- 3) The monthly average financial support received by the Appellant totaled \$3079.86, which exceeded the income limits for SNAP and Medicaid assistance.
- 4) The monthly income limit for Medicaid assistance for a one-person household is \$1616, the Appellant's unearned income exceeded the limit set forth by policy.
- 5) The gross income limit for SNAP assistance for a one-person household is \$1473, the Appellant's unearned income exceeded the limit set forth by policy.
- 6) The net income limit for SNAP assistance for a one-person household is \$1133, the Appellant's unearned income after exclusions and deductions exceeded the limit set forth by policy.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision by the Respondent to terminate Supplemental Nutrition Assistance Program and Medicaid assistance.

ENTERED this _____ day of September 2023.

Eric L. Phillips
State Hearing Officer