



**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**

November 15, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NOS.: 23-BOR-3167 and 23-BOR-3171

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Jessica Koch, WVDHHR

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

██████████,

Appellant,

v.

Action Numbers: 23-BOR-3167 & 23-BOR-3171

**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 November 7, 2023.

The matter before the Hearing Officer arises from the Respondent's September 19, 2023, calculation of Supplemental Nutrition Assistance Program (SNAP) benefits and the March 29, 2023, decision to terminate SSI Medicaid.

At the hearing, the Respondent appeared by Jessica Koch, Economic Services Supervisor, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Supplemental Nutrition Assistance Program (SNAP) 6 or 12 Month Contact Form dated August 21, 2023
- D-2 Notice of Decision dated September 19, 2023
- D-3 Notice of Decision dated March 29, 2023

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 Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) The Respondent sent the Appellant a SNAP 6 or 12 Month Contact Form on August 21, 2023 (Exhibit D-1).
- 3) The Respondent sent the Appellant a Notice of Decision dated September 19, 2023, indicating that she would receive \$23 per month in SNAP benefits (Exhibit D-2).
- 4) The Appellant receives \$1,456 in gross monthly Social Security benefits (Exhibit D-1).
- 5) The Appellant pays rent of \$346 per month (Exhibit D-1).
- 6) The Appellant heats her house with gas and qualifies for a Standard Utility Allowance.
- 7) The Appellant's SSI Medicaid benefits closed effective May 2023 because she stopped receiving Supplemental Security Income (SSI).
- 8) The Appellant was notified of the SSI Medicaid closure in a Notice of Decision dated March 29, 2023 (Exhibit D-3).
- 9) The March 29, 2023, Notice was sent to [REDACTED] the Appellant's correct address at that time (Exhibit D-3).
- 10) The Appellant has since been approved for the Specified Low Income Medicare Beneficiary Program, which pays her Part B Medicare premium.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 4.4.2. B lists allowable deductions for SNAP benefits. These deductions include the earned income disregard of 20 percent, the standard deduction, the dependent care deduction, the child support deduction, the Homeless Shelter Standard Deduction, medical expenses for the elderly and/or disabled, shelter expenses, and the Standard Utility Allowance (SUA).

Standard Utility Allowances 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 Chapter 4, Appendix B. Assistance Groups 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.

Code of Federal Regulations 7 CFR 273.9(d)(1)(i) addresses the Standard Deduction for SNAP benefits and states, in pertinent part:

48 States, District of Columbia, Alaska, Hawaii, and the Virgin Islands. Effective October 1, 2002, in the 48 States and the District of Columbia, Alaska, Hawaii, and the Virgin Islands, the standard deduction for household sizes one through six shall be equal to 8.31 percent of the monthly net income eligibility standard for each household size established under [paragraph \(a\)\(2\)](#) of this section rounded up to the nearest whole dollar. For household sizes greater than six, the standard deduction shall be equal to the standard deduction for a six-person household.

Code of Federal Regulations 7 CFR 273.9(d)(6)(iii) addresses Standard Utility Allowances for SNAP purposes and states, in pertinent part:

(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.

West Virginia Income Maintenance Manual Chapter 4, Appendix B, states that the current SNAP Standard Deduction for a one-person Assistance Group is \$198 per month. The current SNAP Heating Cooling Standard is \$496 per month.

West Virginia Income Maintenance Manual Chapter 4.4.3.B addresses how to compute countable income for SNAP purposes.

- 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, including the WV WORKS benefit and any amount reduced or being repaid to WV WORKS due to failure to comply with a program requirement. See Section 4.4.4.
- Step 4: Subtract the Standard Deduction found in Appendix B.
- 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.

Step 10: If the shelter and Standard Utility Allowance is greater than Step 9 and at least one person is elderly or disabled, the amount in excess of 50% is deducted, without regard to the shelter/utility cap, in Appendix B to arrive at countable income.

West Virginia Income Maintenance Manual Chapter 4.4.3.C states that to determine the SNAP allotment, find the countable income and the maximum benefit allotment for the AG in Appendix A. To determine the benefit allotment, multiply net income by 30% (round up) then subtract 30% of net income as calculated above from the maximum monthly benefit for the AG size. Chapter 4, Appendix A, states that the maximum monthly SNAP allotment for a one-person Assistance Group is \$291.

West Virginia Income Maintenance Manual Chapter 1.15.1 states that when SSI benefits are terminated, eligibility as a Deemed SSI Recipient must be evaluated. SDX alerts indicate potential eligibility.

- SGAs, Essential Spouses and Pass-Throughs do not require a Worker determination.
- PAC AG cases require a financial determination by the Worker and a PAC evaluation is completed for any Medicaid applicant or client who may meet the eligibility requirements. When the Worker determines that the client is a Deemed SSI Recipient, he must enter the appropriate code in the eligibility system.

DISCUSSION

Policy states that allowable deductions for SNAP benefits include the earned income disregard of 20 percent, the standard deduction, the dependent care deduction, the child support deduction, the Homeless Shelter Standard Deduction, medical expenses for the elderly and/or disabled, shelter expenses, and the Standard Utility Allowance (SUA).

The Appellant testified that she pays rent, has gas and electric bills, and has no out-of-pocket medical expenses. She agreed that her monthly income is \$1,456 per month. The Appellant is entitled to the Standard Deduction of \$198 and the Standard Utility Allowance based on her heating expense. Countable income is calculated as follows:

\$1,456 - \$198 (Standard Deduction) = \$1,258.

\$346 (rent) + \$496 (Heating/Cooling Standard) = \$842

\$842 - \$629 (1/2 of \$1,258) = \$213 (excess shelter/utility costs)

\$1,258 (income after Standard Deduction) - \$213 (excess shelter/utility costs) = \$1,045 countable SNAP income.

After all deductions, the Appellant's countable income for SNAP purposes is \$1,045 per month. Persons with \$1,045 in countable income are entitled to \$23 per month in SNAP benefits (\$1,045 net income x 30% = \$314 - \$291 maximum SNAP allotment for one person = \$23 per month).

The Respondent's representative testified that the Appellant has been entitled to receive \$23 per month in SNAP benefits for the past several months, but was receiving \$258 per month in additional SNAP benefits due to the Covid-19 public health emergency. Those additional Covid-19 emergency SNAP benefits have since ended.

The Appellant's SSI Medicaid case had not been reviewed for several months due to procedures established during the Covid-19 public health emergency. The Appellant testified that she understands why her SSI Medicaid benefits closed, but that she did not receive a termination letter. She confirmed that the mailing address to which her SSI Medicaid termination letter was sent was correct; however, she was in the process of moving at that time and she did not receive the notification. The Appellant stated that she filed for Social Security Survivor's Income shortly after her ex-husband died in 2021. Prior to that time, she stated that she started receiving retirement benefits through her ex-husband's account and her SSI benefits had been terminated.

While the Appellant is currently receiving SLIMB benefits that pay her Medicare premium, there is no indication that she was evaluated as a Deemed SSI recipient following the termination of SSI Medicaid benefits as required by policy. Therefore, the Appellant should be evaluated for Deemed SSI Program benefits and notified of her eligibility accordingly.

CONCLUSIONS OF LAW

- 1) The Appellant's net adjusted income following allowable deductions is \$1,045 per month for SNAP purposes.
- 2) Individuals with a net adjusted income of \$1,045 per month are eligible for \$23 in SNAP benefits.
- 3) The SNAP allotment determination as calculated by the Respondent is correct.
- 4) The Appellant's SSI Medicaid benefits were terminated effective May 2023 after the Respondent determined that she no longer received SSI.
- 5) Policy requires that an individual be evaluated for Medicaid as a Deemed SSI recipient when SSI benefits are terminated.
- 6) It is unclear whether the Appellant was evaluated for Deemed SSI Medicaid benefits.
- 7) The Appellant must be evaluated for Deemed SSI benefits as required by policy.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's calculation of SNAP benefits. The Respondent's decision to terminate SSI Medicaid benefits is **UPHELD**; however, the case is **REMANDED** to the Respondent to determine whether the Appellant may qualify for Medicaid as a Deemed SSI recipient.

ENTERED this 15th day of November 2023.

Pamela L. Hinzman
State Hearing Officer