



**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 28, 2023

[REDACTED]

Re: [REDACTED] v WV DHHR
ACTION NO.: 23-BOR-3182

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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

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

cc: Rebecca Skeens, WV DHHR, [REDACTED]

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

IN THE MATTER OF:

ACTION NO.: 23-BOR-3182

[REDACTED]

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 [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (DHHR) Common Chapters Manual. This fair hearing was convened on November 02, 2023, on an appeal filed October 13, 2023.

The matter before the Hearing Officer arises from the September 07, 2023 determination by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Rebecca Skeens, Economic Service Worker, DHHR. Appearing as a witness on behalf of the Respondent was Linda Stover, Front-End Fraud Investigator (FEFU), Investigations and Fraud Management (IFM). The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV PATH eligibility system printout of Case Comments, dated September 06, 2023 through October 13, 2023
- D-2 WV PATH eligibility system printout of Employment Income Information for [REDACTED], printed October 25, 2023; Employment Income Printout for [REDACTED], dated August 31, 2021 through August 16, 2023; and WV PATH eligibility system printout of Driver History Inquiry - Driver ID for [REDACTED], dated March 16, 2023
- D-3 WV PATH eligibility system printout of Unearned Income Information for [REDACTED], printed October 25, 2023
- D-4 WV DHHR Notice of Decision, dated September 07, 2023
- D-5 West Virginia Income Maintenance Manual (WVIMM) §§ 3.2.1.A.3 - 3.2.1.A.6
- D-6 WVIMM §§ 11.5 - 11.5.2.B

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. (Exhibit D-1)
- 2) On an unknown date, the Respondent received a report that the absent parent of the Appellant's grandchild was living in her household.
- 3) On September 06, 2023, based on statements from residents who live in the Appellant's community and through corroborative evidence, the Front-End Fraud Unit determined that the Appellant's daughter, [REDACTED] was a member of the Appellant's household and that her income should have been considered when evaluating the Assistance Group's (AG) eligibility for SNAP benefits. (Exhibits D-1 through D-4)
- 4) On August 16, 2023, the Front-End Fraud Unit investigator received a wage history and employment verification form from [REDACTED] employer listing her home address as: [REDACTED] (Exhibit D-2)
- 5) Verified through testimony provided by the Appellant at the time of the hearing, a Driver History Inquiry from the West Virginia Division of Motor Vehicles (WV DMV) driver's license renewal obtained by the Front-End Fraud Unit investigator lists [REDACTED] [REDACTED] (Exhibit D-2)
- 6) Based on the Front-End Fraud Unit's report, the Respondent added [REDACTED] and her earned income into the Appellant's SNAP case effective October 01, 2023. (Exhibits D-1 through D-4)
- 7) On September 07, 2023, the Respondent issued a notice of decision to the Appellant informing her that effective October 01, 2023, her SNAP benefits would be terminated due to total household income exceeding the limit established by policy. (Exhibit D-4)
- 8) The Respondent's September 07, 2023, decision was based on the Appellant's total household income and composition containing the Appellant, [REDACTED] [REDACTED]. (Exhibit D-4)
- 9) The Appellant's daughter, [REDACTED], is the biological mother of child, [REDACTED].
- 10) The Appellant did not contest the Respondents total household income calculation.

APPLICABLE POLICY

Code of Federal Regulations (CFR) 7 CFR § 273.2(f)(2)(i) provides, in part:

(2) *Verification of questionable information.*

(i) The State agency shall verify, prior to certification of the household, all other factors of eligibility which the State agency determines are questionable and affect the household's eligibility and benefit level. The State agency shall establish guidelines to be followed in determining what shall be considered questionable information. These guidelines shall not prescribe verification based on race, religion, ethnic background, or national origin. These guidelines shall not target groups such as migrant farmworkers or American Indians for more intensive verification under this provision.

7 CFR § 273.2(f)(3)(i) provides, in part:

State agency options. In addition to the verification required in paragraphs (f)(1) and (f)(2) of this section, the State agency may elect to mandate verification of any other factor which affects household eligibility or allotment level, including household size where not questionable. Such verification may be required Statewide or throughout a project area, but shall not be imposed on a selective, case-by-case basis on particular households.

(i) The State agency may establish its own standards for the use of verification, provided that, at a minimum, all questionable factors are verified in accordance with paragraph (f)(2) of this section and that such standards do not allow for inadvertent discrimination. For example, no standard may be applied which prescribes variances in verification based on race, religion, ethnic background or national origin, nor may a State standard target groups such as migrant farmworkers or American Indians for more intensive verification than other households. The options specified in this paragraph, shall not apply in those offices of the Social Security Administration (SSA) which, in accordance with paragraph (k) of this section, provide for the SNAP certification of households containing recipients of Supplemental Security Income (SSI) and social security benefits. The State agency, however, may negotiate with those SSA offices with regard to mandating verification of these options.

7 CFR § 273.9 provides, in part:

(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.

7 CFR § 273.9(a)(4), provides, in part:

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

7 CFR 273.10(e) provides, in part:

(e) Calculating net income and benefit levels —

(1) Net monthly income.

(i) To determine a household's net monthly income, the State agency shall:

(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; or

(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.

West Virginia Income Maintenance Manual (WVIMM) 1.2.4 provides, in part:

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.

WVIMM 3.2.1.A provides, in part:

The SNAP AG must include all eligible individuals who both live together and purchase food and prepare meals together, with the exception of residents of shelters for battered persons.

WVIMM § 3.2.2 provides, in part:

The income group includes all AG members and all individuals who live with the AG and would otherwise be included in the AG if not ineligible, disqualified, or excluded by law.

WVIMM §§ 6.1-6.1.2 provides, in part:

Federal Data Hub and Income and Eligibility Verification System (IEVS) are

electronic sources that perform data matches to verify types of income/assets. Data exchange information available at application and review may be used by the Worker to evaluate discrepancies in the client's statement when it disagrees with Hub data.

Information is provided to the Worker through data exchanges. Information obtained through IEVS is used to verify the eligibility of the AG, to verify the proper amount of benefits, and to determine if the AG received benefits to which it was not entitled.

WVIMM § 7.3 provides, in part:

Section 7.3 identifies items to be verified, which programs require verification, when information must be verified, and possible sources of verification.

61. SNAP Residence: Rent or mortgage receipts; landlord's statement; written statements from neighbors; employment records.

WVIMM § 10.4.2.B.1 provides, in part:

Action must be taken for all AGs when information is received from a source 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
- Housing and Urban Development (HUD)
- State On-Line Query (SOLQ)

WVIMM § 11.5 provides in part:

The FEFU verifies questionable information to assist in reducing errors and the potential for fraud. Staff of the FEFU are known as Front-End Verification Specialists (FEVS)

WVIMM § 11.5.1.C provides in part:

FEFU verification may be conducted when unreported individuals with income are suspected to be living in the home.

DISCUSSION

Pursuant to policy, the Respondent's Front-End Fraud Unit can investigate SNAP referrals concerning household composition and earned income. Front-End Fraud Unit findings are considered verified upon receipt by the Respondent and action must be taken. On September 07, 2023, the Respondent took action to include [REDACTED] in the Appellant's AG upon verified information received from a concluded Front-End Fraud Unit investigation. Once [REDACTED] was included in the Appellant's AG, her income was considered and the Respondent determined the AG to be ineligible for SNAP benefits due to the AG's income exceeding SNAP income eligibility guidelines. The Appellant contested closure of her SNAP benefits due to [REDACTED] being added to her AG and argued that [REDACTED] does not reside in her household. The Appellant did not

contest the amount of income used to determine the AG's SNAP eligibility and only challenged the inclusion of [REDACTED] to the AG. The Respondent had to prove by a preponderance of evidence that [REDACTED] was correctly included in the Appellant's AG and that her income was required to be considered when the Respondent made the September 07, 2023 decision regarding the AG's SNAP eligibility.

The Respondent's witness, the Front-End Fraud Unit worker who investigated the allegation, Linda Stover (Ms. Stover), testified she obtained multiple witness statements from residents who live in the Appellant's community, claiming [REDACTED] resides in the Appellant's home. She further argued that when requesting verification of income with [REDACTED] employer, it was revealed that [REDACTED] provided her employer with the same address as the Appellant. Additionally, Ms. Stover testified to performing a Driver's History inquiry through the WV DMV which disclosed [REDACTED] "recently" renewed her drivers license with the Appellant's address listed as her residency.

The Appellant confirmed that [REDACTED] did register her [the Appellant's] address on the renewed driver's license. The Appellant testified that because she has lived in the same home for "over 20 years," others, in addition to [REDACTED], utilize her residence to receive mail and packages. However, she argued, they do not reside in her household. The Appellant further testified that because she has taken care of [REDACTED] daughter since birth, [REDACTED] visits often in order to spend time with her daughter, as well as assist the Appellant with daily household tasks that she has the inability to maintain due to illness.

Both the Respondent and the Appellant provided contradictory statements concerning [REDACTED] living arrangements. However, the Front-End Fraud Unit worker who investigated the allegation, provided credible testimony while the Appellant's was inconsistent. The Appellant testified that [REDACTED] daughter has lived in the Appellant's home since birth. But when the Appellant was questioned about [REDACTED] permanent residence, she testified that [REDACTED] moves from home to home with different people and does not have a permanent residence. The Appellant's assertion that [REDACTED] lives separately from her daughter must be viewed with some skepticism in light of the fact that statements from [REDACTED] employer and residents who live in the community, indicate [REDACTED] is living with the Appellant.

Additionally, a WV PATH eligibility system printout of Driver History was provided for [REDACTED] that lists a shared address with the Appellant. During the Front-End Fraud Unit workers testimony regarding [REDACTED] drivers license renewal, the Appellant confirmed the Respondent's finding and testified that [REDACTED] did recently renew her license and provide the WV DMV with the Appellant's address as her place of residency; thus further lending credence to the Respondent's position that [REDACTED] lives in the Appellant's home. Based on the totality of evidence, it is reasonable to believe that [REDACTED] does reside in the Appellant's home. Further, the Appellant's testimony asserting that [REDACTED] does not have a permanent address, despite the relationship with her child who has resided with the Appellant since birth, is not credible. Because no reliable evidence was entered to corroborate the Appellant's claims and the evidence conflicted with the Appellant's assertions, the information provided by the Appellant was given little weight in the decision of this Hearing Officer.

Policy provides that an AG's income group includes all AG members who live with the AG. Therefore, the Respondent correctly included [REDACTED] income when determining the Appellant's AG's SNAP eligibility. As the amount of income considered was not contested, the Respondent's evidence verified that the Appellant's AG exceeded the SNAP eligibility guidelines.

CONCLUSIONS OF LAW

- 1) The Respondent's Front-End Fraud Unit is authorized to conduct investigations concerning questionable household composition and unreported income in SNAP cases.
- 2) The Front-End Fraud Unit conducted an investigation and on September 06, 2023, determined that the Appellant's daughter, [REDACTED], was residing in her household and had employment income.
- 3) Front-End Fraud Unit investigative findings are considered verified upon receipt by the Respondent's Economic Services Unit.
- 4) Because Front-End Fraud Unit investigative findings are considered verified upon receipt, the Respondent took action to add the Appellant's daughter, [REDACTED] to her Assistance Group.
- 5) Because the preponderance of evidence revealed that [REDACTED] resides in the Appellant's household, the Respondent's action to include [REDACTED] income for SNAP benefit eligibility purposes was correct.
- 6) The AG's gross monthly income of \$3,855.76 exceeds the SNAP income eligibility guidelines for a four (4) person AG.
- 7) Because the AG's gross monthly income exceeds the SNAP income eligibility guidelines for a four (4) person AG, the Respondent acted in accordance with policy when terminating 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 Supplemental Nutrition Assistance Program benefits.

ENTERED this _____ day of November 2023.

Angela D. Signore
State Hearing Officer