



**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**

December 18, 2023

[REDACTED]

Re: [REDACTED] v WV DHHR
ACTION NO.: 23-BOR-3377

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-3377

██████████,

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' (DHHR) Common Chapters Manual. This fair hearing was convened on December 12, 2023, on an appeal filed October 03, 2023.

The matter before the Hearing Officer arises from the October 02, 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 witnesses on behalf of the Respondent were Autumn Staup, James Cook, and Victoria Petro. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV DHHR PRC2 Review Form, dated August 14, 2023
- D-2 WV PATH eligibility system printout of Case Comments, dated September 06, 2023 through September 25, 2023
- D-3 WV DHHR Verification Checklist Notice, dated September 12, 2023
- D-4 WV PATH eligibility system printout of Case Comments, dated September 29, 2023 through November 13, 2023
- D-5 2022 Federal and West Virginia State Income Tax Return for ██████████
- D-6 Employment Earnings for ██████████, check date September 08, 2023
- D-7 WV PATH eligibility system printout of Self Employment Income for ██████████, dated September 09, 2023
- D-8 WV PATH eligibility system printout of Unearned Income for ██████████, dated September 11, 2023

- D-9 WV PATH eligibility system printout of Employment Income for [REDACTED], dated September 01, 2023 through November 14, 2023
- D-10 WV DHHR Notice of Decision, dated October 02, 2023
- D-11 West Virginia Income Maintenance Manual (WVIMM) §§ 4.5 through 4.5.1.E.1
- D-12 WVIMM §§ 4.4.1.F through 4.4.2.B.2

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 for a four (4) person Assistance Group (AG). (Exhibit D-10)
- 2) On August 14, 2023, the Respondent issued SNAP and Medicaid eligibility review forms (CSLR) to the Appellant with instructions to complete and return the form to the local office by September 01, 2023. The notice also advised the Appellant of a telephone interview appointment scheduled for September 05, 2023. (Exhibit D-1)
- 3) The Appellant returned the SNAP and Medicaid eligibility review forms to the local office on September 08, 2023. (Exhibit D-1)
- 4) The Appellant's telephone eligibility review was completed on September 11, 2023. (Exhibits D-2 through D-4)
- 5) At the time of the September 11, 2023 eligibility review, the Appellant reported that she is now employed by [REDACTED], and that her husband was self-employed. (Exhibits D-1 through D-5, D-7, and D-10)
- 6) The Respondent issued a Verification Checklist to the Appellant on September 12, 2023, requesting verification of: [REDACTED] - Employment income/Proof of gross earned income; [REDACTED] - Proof of child care or disabled adult care; [REDACTED] - Proof of gross income from self-employment; [REDACTED] - Proof of self-employment expenses; [REDACTED] - Proof of mortgage obligation. The Verification Checklist indicated that the information was due by September 21, 2023 (Exhibit D-3)
- 7) On September 29, 2023, after receiving the documentation requested on the September 21, 2023 Verification Checklist, the Respondent updated the Appellant's case. (Exhibit D-3)
- 8) On October 02, 2023, the Respondent issued a notice of decision informing the Appellant that effective October 01, 2023, her SNAP benefits would terminate due to excessive income. (Exhibit D-10)

- 9) The Appellant did not contest the Respondent's calculation of the AG's gross monthly income of \$4,514.92.
- 10) The gross income limit for a SNAP AG of four (4) is \$3,250 monthly. (Exhibit D-10)

APPLICABLE POLICY

The Code of Federal Regulations, 7 CFR § 273.9, provides, in part:

§ 273.9 Income and deductions.

(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 her circumstances so that the Worker is able to make a correct determination about her eligibility.

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 § 4.4.3.B provides, in part:

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

Step 1: Combine monthly gross countable earnings

Step 2: Deduct 20% of Step 1

Step 3: Add the gross countable unearned income

Step 4: Subtract the Standard Deduction Amount found in Appendix B

Step 5: Subtract allowable Dependent Care Expenses

Step 6: Subtract the amount of legally obligated child support actual 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 no one in the home is elderly or disabled, and the shelter/utility costs are equal to or less than step 9, no further computation is needed and the amount from Step 8 is the countable income. If no one in the home is elderly or disabled, and the shelter/ utility cost amount is in excess of 50%, not to exceed the shelter/utility cap in Appendix B is deducted to arrive at countable income. If at least one person in the household is elderly or disabled, and shelter/utility costs are equal to or less than Step 9, no further computation is needed and the amount from Step 8 is the countable income. The amount in excess of 50% is deducted, without regard to the shelter/utility cap in Appendix B to arrive at countable income.

WVIMM Chapter 4, Appendix A and Appendix B provides, in part:

For a four-person AG, the gross monthly income limit is \$3,250.

WVIMM § 9.3.1 provides, in part:

A client must receive advance notice in all situations involving adverse actions except those described in the Adverse Actions Not Requiring Advance Notice Section. The advance notice requirement is that notification be mailed to the client at least 13 days prior to the first day of the month in which the benefits are affected.

WVIMM § 9.3.1.B provides, in part:

The following adverse actions do not require advance notice; use the DFA-NL-B in these situations.

- When adverse action occurs as a result of a mass change initiated, such as:
 - The annual updates of SNAP allotments or deductions;
 - The annual Retirement, Survivors, and Disability Insurance (RSDI)/SSI updates;
 - A change in the WV WORKS benefit levels; or
 - A change in the Medically Needy Income Levels (MNIL).
- When the client has signed a DFA-NL-5, Waiver of 13-Day Advance Notice, to waive his right to a 13-day advance notice. See Section 9.3.
- For SNAP only: when the benefit is terminated or reduced as a result of a redetermination.

DISCUSSION

The Appellant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits for a four (4) person Assistance Group (AG). On August 14, 2023, the Respondent issued SNAP and Medicaid eligibility review forms (CSLR) to the Appellant with instructions to complete and return the form to the local office by September 01, 2023. The notice also advised the Appellant of a telephone interview appointment scheduled for September 05, 2023. The Appellant returned the SNAP and Medicaid eligibility review forms to the local office on September 08, 2023 and completed her eligibility review on September 11, 2023.

At the time of the September 11, 2023 eligibility review, the Appellant reported that her husband was self-employed. The Respondent issued a Verification Checklist to the Appellant on September 12, 2023, requesting verification of: [REDACTED] - Employment income/Proof of gross earned income; [REDACTED] - Proof of child care or disabled adult care; [REDACTED] - Proof of gross income from self-employment; [REDACTED] - Proof of self-employment expenses; [REDACTED] - Proof of mortgage obligation. The Verification Checklist indicated that the information was due by September 21, 2023. After receiving the requested documentation, the Respondent updated the Appellant's case and issued a notice of

decision on October 02, 2023, informing her that effective October 01, 2023, her SNAP benefits would terminate due to excessive income. The Respondent had to prove by a preponderance of evidence that the Appellant's monthly gross income was over the limit established by policy for SNAP eligibility purposes.

The Appellant did not contest the amount of income used, the amount of deductions applied, or the calculations used to determine her SNAP eligibility. In fact, during the hearing, the Appellant testified to the contrary when she stated that the Respondent's calculation of the AG's total monthly gross income was correct. The Appellant testified that she could not understand how the AG's total household income is too excessive for SNAP eligibility purposes since her income has decreased. At the time of the hearing, the Respondent reviewed the Appellant's case and testified that based on the Appellant's previous statement, zero income was recorded for [REDACTED] when the Respondent calculated the AG's previous gross monthly income and SNAP benefit allotment amount.

When reviewing the evidence, the Respondent calculated the AG's gross monthly income to equal \$4,514.92. Because the amount of the income calculation was not contested by the Appellant, it was compared to policy to determine the proper amount of monthly SNAP benefits for the Appellant's AG. Pursuant to the policy, the gross income limit for a four (4) person household for SNAP eligibility purposes is \$3,250. Because the Appellant's monthly gross income of \$4,514.92 is excessive for SNAP eligibility purposes, the Respondent's action to terminate the Appellant's SNAP benefits is affirmed.

CONCLUSIONS OF LAW

- 1) The Appellant completed a redetermination to establish her Assistance Group's (AG) Supplemental Nutrition Assistance Program (SNAP) benefit eligibility.
- 2) The Appellant did not contest the amount of income used by the Respondent to determine the AG's eligibility for SNAP benefit purposes.
- 3) Because the Appellant did not contest the Respondent's income calculation, the AG's total monthly gross income is \$4,514.92.
- 4) For a four (4) person AG to be eligible for SNAP benefits, the gross monthly income must be at or below \$3,250.
- 5) Because the Appellant's gross monthly income exceeds the limit established by policy, the Respondent must terminate the Appellant's SNAP benefits.
- 6) The Respondent acted correctly to terminate the Appellant's SNAP benefits due to the AG's income exceeding SNAP eligibility guidelines

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to terminate

the Appellant's Supplemental Nutrition Assistance Program benefits.

ENTERED this 18th day of December 2023.

Angela D. Signore
State Hearing Officer