



**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 30, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-3396

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
Carla Marsh, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 23-BOR-3396

**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 28, 2023.

The matter before the Hearing Officer arises from the October 30, 2023, decision by the Respondent to decrease Supplemental Nutrition Assistance Program (SNAP) benefits.

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 Case Comments from Respondent's computer system
- D-2 SNAP Budget information
- D-3 Income Summary
- D-4 Expenses Summary
- D-5 Notice of Decision dated October 19, 2023
- D-6 Notice of Decision dated October 30, 2023
- D-7 West Virginia Income Maintenance Manual Chapter 4.4.3

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 Appellant completed a telephone review of his SNAP case on October 5, 2023 (Exhibit D-1).
- 3) The Appellant was asked to verify income from three sources: [REDACTED] [REDACTED] (Exhibit D-1).
- 4) The Appellant provided income verifications and the Respondent calculated his gross income as follows: [REDACTED] - \$543.36 per month; [REDACTED] - \$1,166.03 per month; and [REDACTED] - \$313.84 per month (averaged from first through third-quarter income and divided over nine months) (Exhibits D-1 and D-3).
- 5) The Appellant's combined total gross monthly income totaled \$2,023.23.
- 6) At the time of the review, the Appellant's rent was \$500 per month (Exhibit D-4).
- 7) The Appellant paid a heating expense and was eligible for the Heating/Cooling Standard Deduction (Exhibit D-4).
- 8) The Appellant has a two-person SNAP Assistance Group (Exhibit D-1).
- 9) The Appellant's monthly SNAP allotment was calculated as \$194 per month (Exhibit D-2).
- 10) The Respondent sent the Appellant a Notice of Decision on October 30, 2023, indicating that his SNAP benefits would be \$194 per month effective November 2023.
- 11) The Appellant did not dispute the amount of income and shelter/utility expenses counted by the Respondent based on information provided during the October 2023 review.

APPLICABLE POLICY

Code of Federal Regulations Section 7 CFR 273.9 states:

(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.
- (ii) The income eligibility standards for Alaska shall be 130 percent of the Federal income poverty levels for Alaska.
- (iii) The income eligibility standards for Hawaii shall be 130 percent of the Federal income poverty levels for Hawaii.

(2) The net 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 the Federal income poverty levels for the 48 contiguous States and the District of Columbia.
- (ii) The income eligibility standards for Alaska shall be the Federal income poverty levels for Alaska.
- (iii) The income eligibility standard for Hawaii shall be the Federal income poverty levels for Hawaii.

(3) The income eligibility limits, as described in this paragraph, are revised each October 1 to reflect the annual adjustment to the Federal income poverty guidelines for the 48 States and the District of Columbia, for Alaska, and for Hawaii.

- (i) 130 percent of the annual income poverty guidelines shall be divided by 12 to determine the monthly gross income standards, rounding the results upwards as necessary. For households greater than eight persons, the increment in the Federal income poverty guidelines is multiplied by 130 percent, divided by 12, and the results rounded upward if necessary.

(ii) The annual income poverty guidelines shall be divided by 12 to determine the monthly net income eligibility standards, rounding the results upward as necessary. For households greater than eight persons, the increment in the Federal income poverty guidelines is divided by 12, and the results rounded upward if necessary.

(4) 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

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 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. AGs that are not obligated to pay any utility expenses are ineligible for the SUA, even if other residents pay utility expenses.

West Virginia Income Maintenance Manual Chapter 4.4.3.B (Exhibit D-7) 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 two-person Assistance Group is \$535.

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 contested a decrease in SNAP benefits to \$194 effective November 2023. He did not dispute the Respondent's income calculations based on information provided during his case review; however, he testified that he is moving to a new residence and his rent will increase. He also indicated that his fishing tour work with [REDACTED] is seasonal and has stopped for the winter.

The Appellant's countable SNAP income was calculated as follows based on information provided during the October 2023 case review:

\$2,023.23 (gross income) less 20% earned income deduction (\$404.65) = \$1,618.58

\$1,618.58 - \$198 (Standard Deduction) = \$1,420.58

\$500 (rent) + \$496 (Heating/Cooling Standard) = \$996

\$996 - \$710.29 (1/2 of \$1,420.58) = \$285.71 (excess shelter/utility costs)

\$1,420.58 (income after Standard Deduction) - \$285.71 (excess shelter/utility costs) = \$1,134.87 countable SNAP income

After all deductions, the Appellant's countable income for SNAP purposes is \$1,134.87 per month. Persons with \$1,134.87 in countable income are entitled to \$194 per month in SNAP benefits (\$535 maximum SNAP allotment for two people) – \$340.46 (30% of \$1,134.87) = \$194 monthly SNAP allotment.

The Respondent's representative, Jessica Koch, stated that the Appellant's SNAP allotment could be adjusted for December 2023 if he provides verification of his income change and new shelter/utility costs.

CONCLUSIONS OF LAW

- 1) The Respondent calculated the Appellant's monthly SNAP allotment as \$194 based on income/expense information provided during his case review.
- 2) The Appellant did not dispute the income/expense information utilized by the Respondent to calculate the SNAP allotment for November 2023.
- 3) The Respondent correctly calculated the Appellant's SNAP allotment effective November 2023.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to decrease SNAP benefits effective November 2023.

ENTERED this 30th day of November 2023.

**Pamela L. Hinzman
State Hearing Officer**