



**STATE OF WEST VIRGINIA
Office of the Inspector General
Board of Review**

**Sherri A. Young, DO, MBA, FAAFP
Cabinet Secretary**

**Christopher G. Nelson
Interim Inspector General**

February 15, 2024

[REDACTED]

RE: [REDACTED] v. WVDohS
ACTION NO.: 24-BOR-1166

[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 Human Services. These same laws and regulations are used in all cases to ensure 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: Marsha Hizer, BFA

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

██████████,

Appellant,

v.

Action Number: 24-BOR-1166

**WEST VIRGINIA DEPARTMENT OF
HUMAN SERVICES
BUREAU OF FAMILY ASSISTANCE,**

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 Office of Inspector General's Common Chapters Manual. This fair hearing was convened on February 8, 2024, on an appeal filed January 22, 2024.

The matter before the Hearing Officer arises from the Respondent's January 5, 2024 calculation of the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Marsha Hizer, Economic Service Supervisor. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Notice of Decision dated January 5, 2024*

*It should be noted that the presented evidence is missing multiple even numbered pages.

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 SNAP benefits.
- 2) The Appellant is the only member of his household.
- 3) The Appellant has been determined disabled by the Social Security Administration (SSA).
- 4) The Appellant receives monthly SSA disability benefits in the amount of \$2232.70.
- 5) The Respondent utilized \$2163.90 in total gross monthly unearned income for calculation of the Appellant's SNAP allotment. (Exhibit D-1)
- 6) The Appellant pays \$174.70 in monthly Medicare premiums.
- 7) The Appellant owns his home and pays property taxes.
- 8) The Appellant pays for utilities including gas, electricity, water, internet, and phone.
- 9) The Respondent did not allow any medical deductions.
- 10) The Respondent did not allow any shelter expense deductions.
- 11) The Respondent did not allow any standard utility allowance deductions.
- 12) The Appellant is categorically eligible for SNAP benefits.
- 13) On January 5, 2024, the Respondent issued a Notice of Decision informing the Appellant that he was eligible to receive \$23.00 in monthly SNAP benefits effective February 1, 2024.

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 4.4.3 documents in part:

SNAP certification for residents of shelters for battered persons and their children are based on the income, assets, and expenses of the client and their children. See Sections 5.6 and 16.2.

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

- 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:

	No One Elderly or Disabled	At Least One Person Elderly or Disabled
Shelter/SUA Equal to Or Less Than Step 9	No further computation is needed. The amount from Step 8 is the countable income.	No further computation is needed. The amount from Step 8 is the countable income.
Shelter/SUA Greater Than Step 9	The amount in excess of 50%, not to exceed the shelter/utility cap, in Appendix B is deducted to arrive at 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.

Step 11: Compare the countable income to the maximum net income in Appendix A for the AG size. This net income test does not apply to Categorically Eligible AGs. See Chapter 1.

West Virginia Income Maintenance Manual § 4.4.3 documents in part:

To determine the SNAP allotment, find the countable income and the maximum benefit allotment for the AG in Appendix A. One- and two-person AGs who meet the gross and net income test or who are categorically eligible, as defined in Section 1.4.17.C automatically receive the minimum SNAP benefit, unless it is a prorated benefit. See Appendix D, SNAP and WV WORKS Proration Table. No benefits are issued to any AG eligible for an initial, prorated amount less than \$10. See Chapter 1 for proration requirements. The Worker will determine the benefit

amount by using the following method. The eligibility system also uses this method.

Computation of Benefit Amount	Example
Multiply net income by 30% (Round up)	$\$ 554$ Net monthly income $\times .30$ \$166.20 = \$167
Subtract 30% of net income as calculated above from the maximum monthly benefit for the AG size	$\$973$ Maximum allotment for four $- 167$ 30% of net income \$806 SNAP benefit for a full month

West Virginia Income Maintenance Manual 4.4.1.B documents in part:

The Worker must consider information about the client's income sources before deciding which income to use.

The Worker must follow the steps below for each old income source.

Step 1: Determine the amount of income received by all persons in the Income Group (IG) in the 30 calendar days prior to the application/redetermination date, or interview date when the interview is completed on a different day than when the application is received. The appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of application/redetermination. However, if the interview is completed on a different day than when the date the application/redetermination is received, the 30-day look-back period could begin the day before the interview date. The income from this 30-day period is the minimum amount of income that must be considered. When, in the Worker's judgment, future income may be more reasonably anticipated by considering the income from a longer period of time, the Worker considers income for the time period he determines to be reasonable. Whether the Worker considers income from the prior 30 days, or from a longer period of time, all of the income received from that source during that time period must be considered. All pay periods during the appropriate time period must be considered and must be consecutive. If the client provided sufficient income verification on the date the application/redetermination is received, then additional verification is not required at interview. The year-to-date amounts on check stubs may only be used when the client has verification of all payment amounts whether used or not but is missing one.

Step 2: Determine if the income from the previous 30 days is reasonably expected to continue into the new certification period. If it is not expected to continue, the income from this source is no longer considered for use in the new certification period. If it is expected to continue, determine if the amount is reasonably expected to be more or less the same. If so, the income source is used for the new certification

period and treated according to Section 4.4.1.D below. If it is not expected to continue at more or less the same amount, the income source is used for the new certification period and treated according to Section 4.4.1.C below.

Step 3: Record the results of Step 2, including the amount of income, why the source is or is not being considered for the new certification period, the client's statement about continuation of the income from this source, the time period used, and, if more than the previous 30 days, the reason additional income was considered. Once the Worker has determined all of the old sources of income to consider and the time period for which they are considered, he must then determine if any source should be considered for future income.

West Virginia Income Maintenance Manual Chapter 4.4.2.B.2 documents:

A Standard Deduction is applied to the total non-excluded income counted for the AG, after application of the Earned Income Disregard. The amount of the Standard Deduction is found in Appendix B.

West Virginia Income Maintenance Manual Chapter 4 Appendix B documents:

As of October 2023, the Standard Deduction for 1-3 person assistance group is \$198.00

West Virginia Income Maintenance Manual Chapter 4.4.2.B.6 documents:

Medical expenses in excess of \$35 must be allowed as a medical deduction for AG members who are elderly, which is at least age 60, or disabled, as defined in Section 13.15. Once the medical expenses of all such AG members have been totaled, the amount of the total in excess of \$35 is used as a medical deduction. Thirty-five dollars (\$35) is deducted from the total amount of expenses for the AG, not \$35 from each person's expenses. There is no maximum dollar limit for a medical deduction.

➤ Allowable Expenses Only medical costs that are not reimbursable through a third party (insurance, Medicaid, etc.) are deducted. The deduction cannot be granted until the reimbursable portion of the expense is known.

- The cost of any medical goods or services related to the use of an illegal substance under federal law, including medicinal marijuana, may not be deducted.
- Medical and dental care, including psychotherapy and rehabilitation services provided by a qualified health professional.
- Prescription and over-the-counter drugs, if prescribed by a qualified health professional. This includes postage and handling costs paid for mail-order prescription drugs.
- Medical supplies and equipment, if prescribed by a qualified health professional. Items may be either purchased or rented.

- Hospital or outpatient costs, nursing care, and nursing facility care. This is also allowable if paid on behalf of an individual who was a member of the AG immediately prior to admission to a facility. The facility must be recognized by the State.
- Health and hospitalization insurance premiums, including long-term care, vision, and dental insurance. When the individual(s) who qualifies for a medical deduction has medical insurance under a policy that benefits other individuals who do not qualify for a medical deduction, only the portion of the insurance premium assigned to the qualifying individual(s) is considered. If specific information is not available about the eligible individual's premium amount, the premium is prorated among those covered by the insurance.
- Medicare premiums, except when the DHHR is paying the premium.
- Medical support service systems, if prescribed by a qualified health professional. Allowable costs are related to the purchase, rental, and maintenance of the system. Examples of medical support service systems include, but are not limited to, Lifeline Personal Response, Life Alert, etc.
- Dentures
- Hearing aids and batteries
- Purchase and maintenance of prosthetic devices
- Purchase and maintenance of a trained service animal which is required for a physical or mental disability and is prescribed by a doctor. This includes the cost of food and veterinarian bills for the service animal. Trained service animals may include seeing or hearing dogs, therapy animals to treat depression, animals used by persons with other disabilities such as epilepsy, paraplegia, etc. When the supervisor is unable to determine whether or not an animal meets the applicable criteria or an animal-related expense is an appropriate deduction, he must contact the Division of Family Assistance (DFA) Economic Services Policy Unit for clarification.
- Prescription eyeglasses
- Reasonable cost of transportation and lodging to obtain medical treatment or services. If a client can verify that a charge was made for transportation, but the transportation provider will not state the amount, the current state mileage rate is allowed as a medical deduction.
- Maintaining an attendant, homemaker, home health aide, housekeeper, or childcare services necessary due to age, infirmity, or illness. If the AG provides the majority of the attendant's meals, an amount equal to the maximum monthly SNAP allotment for one person is also used as a medical deduction.
- Any cost-sharing or spenddown expense incurred by Medicaid clients.

West Virginia Income Maintenance Manual Chapter 13.15 documents in pertinent part:

Disabled means the individual is receiving one of the following:

- Social Security Disability Benefits.

West Virginia Income Maintenance Manual Chapter 4.4.2.C documents in pertinent part:

Items considered in arriving at shelter expenses are the continuing amounts of:

- Property taxes and special tax assessments on the structure and lot required by State or local law. This does not include assessments such as police and fire fees, unless the fee is based on property valuation.

West Virginia Income Maintenance Manual Chapter 4.4.2.C.1 documents:

SUAs are fixed deductions that are adjusted yearly to allow for fluctuations in utility expenses. AGs with utility expenses for both occupied and unoccupied homes may only use the SUA for one home of his choice. 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. AGs 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 expense are ineligible for the SUA, even if other residents pay utility expenses. Eligibility for the SUA must be evaluated at certification, redetermination, and when the AG reports a change in utilities that may affect its eligibility for a deduction. Items that are considered utilities include, but are not limited to:

- Water, including well installation and maintenance
- Liquefied Petroleum Gas (LP or LPG) or natural gas
- Wood, wood pellets, coal, and heating oil
- Electricity
- Sewage, including septic tank system installation and maintenance
- Garbage collection
- The basic rate for one telephone, either landline or cellular service, but not both. Basic rates include, but are not limited to, taxes, wire maintenance fees, subscriber line charges, relay center surcharges, and 911 fees. It does not include extra services such as, call-waiting, caller ID, etc.

Items not considered utilities include, but are not limited to:

- Cable/digital/satellite television service
- Internet service
- Utility deposits
- Pre-paid cell phones

Heating/Cooling Standard (HCS)

AGs that are obligated to pay a heating or cooling expense that is billed on a regular basis are eligible for the HCS. There does not have to be a monthly bill for heating or cooling throughout the year, just a regular bill for heating or cooling during the appropriate season.

Non-Heating/Cooling Standard (NHCS)

AGs that do not qualify for the HCS but incur two or more utility expenses or at least one utility expense when sharing a residence that has two or more utilities, are eligible for the NHCS.

One Utility Standard (OUS)

AGs that do not qualify for the HCS or the NHCS, but incur one utility expense, are eligible for the OUS.

Code of Federal Regulations – 7 CFR §273.9 provides information regarding SNAP income and deductions:

(a) ***Income eligibility standards.*** Participation in SNAP 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 do not have to meet either the gross or net income eligibility standards.

(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.

(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.

(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.

(d) ***Income deductions.*** Deductions shall be allowed only for the following household expenses:

(1) ***Standard deduction*** —

(i) 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.

(2) ***Earned income deduction.*** Twenty percent of gross earned income as defined in [paragraph \(b\)\(1\)](#) of this section. Earnings excluded in [paragraph \(c\)](#) of this section shall not be included in gross earned income for purposes of computing the earned income deduction, except that the State agency must count any earnings used to pay child support that were excluded from the household's income in accordance with the child support exclusion in [paragraph \(c\)\(17\)](#) of this section.

(3) ***Excess medical deduction.*** That portion of medical expenses in excess of \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in [§271.2](#). Spouses or other persons receiving benefits as a dependent of the SSI or disability and blindness recipient are not eligible to receive this deduction but persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction.

(4) ***Dependent care.*** Payments for dependent care when necessary for a household member to search for, accept or continue employment, comply with the employment and training requirements as specified under [§273.7\(e\)](#), or attend training or pursue education that is preparatory to employment, except as provided in [§273.10\(d\)\(1\)\(i\)](#). Costs that may be deducted are limited to the care of an individual for whom the household provides dependent care, including care of a child under the age of 18 or an incapacitated person of any age in need of care. The costs of care provided by a relative may be deducted so long as the relative providing care is not part of the same SNAP household as the child or dependent adult receiving care. Dependent care expenses must be separately identified, necessary to participate in the care arrangement, and not already paid by another source on behalf of the household.

5) ***Optional child support deduction.*** At its option, the State agency may provide a deduction, rather than the income exclusion provided under [paragraph \(c\)\(17\)](#) of this section, for legally obligated child support payments paid by a household member to or for a non-household member, including payments made to a third party on behalf of the non-household member (vendor payments) and amounts paid toward child support arrearages. Alimony payments made to or for a non-household member shall not be included in the child support deduction.

(6) ***Shelter costs*** —

(i) ***Homeless shelter deduction.*** A State agency may provide a standard homeless shelter deduction of \$143 a month to households in which all members are homeless individuals but are not receiving free shelter throughout the month. The deduction must be subtracted from net income in determining eligibility and allotments for the households.

(ii) ***Excess shelter deduction.*** Monthly shelter expenses in excess of 50 percent of the household's income after all other deductions in [paragraphs \(d\)\(1\)](#) through [\(d\)\(5\)](#) of this section have been allowed. If the household does not contain an elderly or disabled member, as defined in [§271.2 of this chapter](#), the shelter deduction cannot exceed the maximum shelter deduction limit established for the

area. For fiscal year 2001, effective March 1, 2001, the maximum monthly excess shelter expense deduction limits are \$340 for the 48 contiguous States and the District of Columbia, \$543 for Alaska, \$458 for Hawaii, \$399 for Guam, and \$268 for the Virgin Islands. FNS will set the maximum monthly excess shelter expense deduction limits for fiscal year 2002 and future years by adjusting the previous year's limits to reflect changes in the shelter component and the fuels and utilities component of the Consumer Price Index for All Urban Consumers for the 12-month period ending the previous November 30. FNS will notify State agencies of the amount of the limit. Only the following expenses are allowable shelter expenses:

(iii) ***Standard utility allowances.***

(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. The LUA must include expenses for at least two utilities.

§273.10 Determining household eligibility and benefit levels.

(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.

(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.

(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. 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.

(2) *Eligibility and benefits.*

(i) (A) Households which contain an elderly or disabled member as defined in [§271.2](#), shall have their net income, as calculated in [paragraph \(e\)\(1\)](#) of this section (except for households considered destitute in accordance with [paragraph \(e\)\(3\)](#) of this section), compared to the monthly income eligibility standards defined in [§ 273.9\(a\)\(2\)](#) for the appropriate household size to determine eligibility for the month.

(B) In addition to meeting the net income eligibility standards, households which do not contain an elderly or disabled member shall have their gross income, as calculated in accordance with [paragraph \(e\)\(1\)\(i\)\(A\)](#) of this section, compared to the gross monthly income standards defined in [§ 273.9\(a\)\(1\)](#) for the appropriate household size to determine eligibility for the month.

(ii) (A) Except as provided in [paragraphs \(a\)\(1\)](#), [\(e\)\(2\)\(iii\)](#) and [\(e\)\(2\)\(vi\)](#) of this section, the household's monthly allotment shall be equal to the maximum SNAP allotment for the household's size reduced by 30 percent of the household's net monthly income as calculated in [paragraph \(e\)\(1\)](#) of this section. If 30 percent of the household's net income ends in cents, the State agency shall round in one of the following ways:

(1) The State agency shall round the 30 percent of net income up to the nearest higher dollar; or

(2) The State agency shall not round the 30 percent of net income at all. Instead, after subtracting the 30 percent of net income from the appropriate Thrifty Food Plan, the State agency shall round the allotment down to the nearest lower dollar.

(B) If the calculation of benefits in accordance with [paragraph \(e\)\(2\)\(ii\)\(A\)](#) of this section for an initial month would yield an allotment of less than \$10 for the household, no benefits shall be issued to the household for the initial month.

Code of Federal Regulations 273.2 documents in pertinent part:

Categorically eligible

Any household in which all members receive or are authorized to receive SSI benefits.

United States Food and Nutrition Services Fiscal Year 2024 Cost of Living Adjustments

The minimum [SNAP] benefit for the 48 states and D.C. will remain the same at \$23.00

Code of Federal Regulations 273.15 documents:

Time period for requesting hearing. A household shall be allowed to request a hearing on any action by the State agency or loss of benefits which occurred in the prior 90 days. Action by the State agency shall include a denial of a request for restoration of any benefits lost more than 90 days but less than a year prior to the request. In addition, at any time within a certification period a household may request a fair hearing to dispute its current level of benefits.

DISCUSSION

According to Federal Regulations, a household may request a fair hearing at any time during a certification period to dispute its current level of benefits. On January 22, 2024, the Appellant requested a hearing with the Board of Review as a dispute to the Respondent's calculation of his monthly SNAP allotment. The Respondent must prove by a preponderance of the evidence that it correctly calculated the Appellant's monthly SNAP allotment.

On January 5, 2024, the Respondent issued a Notice of Decision (Exhibit D-1) to the Appellant informing him of his eligibility for a \$23.00 monthly SNAP allotment. The notice documents the Appellant's monthly gross income to be \$2163.90. Included in the notice was the Respondent's calculation of the Appellant's SNAP allotment. The Respondent's calculation notes that the Appellant was provided a standard deduction in the amount of \$198.00. After the standard deduction, the Appellant's remaining countable net income was calculated at \$1965.90 (\$2163.90 monthly income minus \$198.00 standard deduction). The Respondent utilized a 30% adjusted income amount of \$589.50 (\$1965.90 multiplied by .30) and compared that to a maximum SNAP allotment of \$291.00 for a one-person assistance group. Due to the Appellant's receipt of Social Security benefits, he was categorically eligible to receive a minimum monthly SNAP allotment of \$23.00.

Marsha Hizer, Economic Service Supervisor, testified that the Appellant receives a total monthly disability benefit from the SSA in the amount of \$2232.70. The gross income documented in the Notice of Decision is \$2163.90, a difference in the amount of \$68.80. Ms. Hizer testified that the difference in utilized amounts was due to a "\$69.23 disregard that is deducted from [the total gross monthly income] that is called a Social Security Administration Disregard." Ms. Hizer testified

that the Appellant was provided a \$198.00 standard deduction for the payment of utilities and that no other income disregards or deductions were utilized in the calculation of the Appellant's SNAP allotment.

The Appellant is 55 years of age who, due to back issues, receives a disability benefit from the SSA. The Appellant disputed the income utilized in the SNAP calculation because he pays Medicare expenses in the monthly amount of \$174.70, which were confirmed by the Respondent. The Appellant indicated that he owns his home, pays for prescription medication, pays property taxes and all utilities. The Appellant summarized his utilities and questioned their utilization in the calculation of his SNAP allotment. The Appellant purported that although he pays property taxes on his home, he is in the process of getting his obligation relieved with the local government due to disability status. Ms. Hizer testified that the Appellant's utility payments were included in the standard deduction. Upon questioning regarding the shelter/utility deduction, Ms. Hizer purported that the "standard deduction is the shelter utility deduction" and that if the Appellant paid any shelter costs they would be associated with the shelter/utility deduction.

Income- Governing policy and federal regulations mandate that monthly SNAP allotments are determined by an assistance group's countable income after all applicable deductions. During the hearing, the Respondent reported that the Appellant receives \$2232.70 in disability benefits from the SSA. However, unearned income listed in the Appellant's eligibility calculation was documented at \$2163.90 (Exhibit D-1), a difference of \$68.80. Clearly, a discrepancy exists in the income amount reported during the hearing process and the income utilized in the calculation of the Appellant's SNAP allotment. The Respondent's claim that the difference is the result of a \$69.23 "Social Security Administration Disregard" is unfounded. The Respondent's assertion of a disregard of income still does not calculate to the correct income documented in evidence (\$2232.70 minus \$69.23=\$2163.47). Additionally, a review of policy and Federal Regulations revealed no "Social Security Administration Disregard". Based on the evidence presented during the hearing process, there is a clear discrepancy in income; therefore, it is reasonable to assume that the Respondent utilized incorrect income information in the overall calculation of the Appellant's SNAP eligibility.

Standard Deduction-Governing policy mandates that a standard deduction is applied to the total non-excluded income counted for an assistance group. Effective October 2023, governing policy documents the standard deduction for an assistance group of 1-3 individuals is \$198.00. The Appellant was afforded a standard deduction in the calculation of SNAP eligibility. Based on the evidence presented, the standard deduction was *correctly* utilized in the determination of the Appellant's SNAP allotment.

Medical Expenses-Governing policy mandates that medical expenses in excess of \$35 must be allowed as a medical deduction for assistance group members who are elderly, which is defined as at least age 60, or disabled. According to policy, the Appellant meets the disability definition because he receives Social Security Disability benefits. The Appellant pays \$174.70 in monthly Medicare premiums which were known by the Respondent at the time of the calculation of SNAP eligibility. Policy considers Medicare premiums as an allowable medical expense; however, the Respondent failed to credit any medical expense deduction, in excess of \$35.00, in the overall calculation of the Appellant's monthly SNAP allotment.

Shelter Expenses-Governing policy mandates that property taxes are considered an allowable deduction when determining monthly SNAP allotments. The Appellant reported that he is obligated to pay property taxes on his home. Policy considers that property taxes required by law are considered shelter expenses when calculating SNAP allotments. The Respondent failed to credit any shelter expenses in the overall calculation of the Appellant's monthly SNAP allotment.

Standard Utility Allowance-Governing policy mandates that assistance groups who are obligated to pay from their resources a utility expense that is billed separately from their shelter expenses are eligible for a Standard Utility Allowance deduction. These deductions are either the Heating/Cooling Standard, the Non-Heating/Cooling Standard, or the One Utility Standard. Based on the evidence presented, the Appellant is obligated to pay for utility expenses, but no deduction or allowance was documented in the calculation supported in the Notice of Decision. (Exhibit D-1) During the hearing process, the Respondent maintained that the Appellant's utility expenses are included in the offered standard deduction. A review of governing policy reveals that the Respondent's assertion, concerning utility expenses being encompassed in a standard deduction, is *incorrect*. The standard deduction is applied to all non-excluded income and has no effect on utility allowances. The Appellant summarized multiple utility expenses for which he is responsible for payment; therefore, it is reasonable to assume that out of various utilities paid, a home heating cost would be included, making the Appellant entitled to one of the outlined shelter utility deductions. Based on the information presented during the hearing process, the Respondent failed to credit any shelter and utility deductions in the calculation of the Appellant's monthly SNAP allotment.

Whereas the Respondent failed to utilize correct income and apply deductions for which the Appellant was entitled, the Respondent's calculation of Appellant's SNAP eligibility cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Federal regulations provide that a SNAP household may request a fair hearing, at any time within a certification period, to dispute its current level of benefits.
- 2) SNAP allotments are determined by an assistance group's countable income after all applicable deductions.
- 3) A clear dispute exists between the income received by the Appellant and the income utilized in the calculation of the SNAP allotment.
- 4) Medical expenses in excess of \$35, are considered an applicable deduction in the calculation of a SNAP allotment for assistance group members who are considered disabled by the Social Security Administration. The Appellant pays for Medicare premiums which were not included in the overall calculation of his SNAP allotment.

- 5) Shelter costs are considered an applicable deduction in the calculation of SNAP allotments. The Appellant pays for shelter costs which were not included in the overall calculation of his SNAP allotment.
- 6) A Standard Utility Allowance is considered an applicable deduction in the calculation of SNAP allotments when an assistance group pays from their own resources a utility expense which is billed separately from shelter expenses. The Appellant pays for utilities expenses which were not included in the overall calculation of the SNAP allotment.
- 7) The Respondent failed to prove by a preponderance of the evidence that it correctly calculated the Appellant's SNAP allotment.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Respondent's determination of the Appellant's SNAP allotment. The matter is remanded for recalculation of the Appellant's SNAP benefits for January 2024 and ongoing.

ENTERED this _____ day of February 2024.

Eric L. Phillips
State Hearing Officer