



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

Jim Justice
Governor

BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Bill J. Crouch
Cabinet Secretary

July 12, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2034/17-BOR-2035

Dear Ms. [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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Nola Martin, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

**Action Numbers: 17-BOR-2034 SNAP
17-BOR-2035 MEDICAID**

**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 July 11, 2017, on an appeal filed June 22, 2017.

The matter before the Hearing Officer arises from the June 5, 2017, decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) and Adult Medicaid benefits.

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

Department's Exhibits:

- D-1 Department Summary
- D-2 Hearing Request received June 22, 2017
- D-3 Hearing Request Notification
- D-4 Scheduling Order dated June 27, 2017
- D-5 Notice of Decision dated June 5, 2017
- D-6 Case Comments from May 2017-July 2017
- D-7 West Virginia Income Maintenance Manual §10.4(C) and Appendix A
- D-8 Paystub from ██████████ dated June 28, 2017

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 SNAP and Adult Medicaid benefits for herself and her husband.
- 2) The Appellant reported on June 2, 2017, that her husband had returned to work (Exhibit D-6).
- 3) The earned income for the Appellant's husband, based upon May 2017 paystubs, was anticipated as \$2,098.84 monthly (Exhibit D-5).
- 4) The Respondent sent a Notice of Decision to the Appellant advising that her SNAP and Adult Medicaid benefits would be terminated effective June 30, 2017, due to excessive income (Exhibit D-5).
- 5) The Appellant provided June 2017 paystubs for her husband to the Respondent, which were calculated as \$2,191.89 monthly income for the household (Exhibit D-8).

APPLICABLE POLICY

For SNAP: West Virginia Income Maintenance Manual §10.4(C), contains policy regarding income disregards and deductions, and explains the computations used to determine eligibility for SNAP benefits.

-When at least one AG member is elderly, which is at least age 60, or disabled as specified in Section 12.15, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. There is no gross income test.

- When no AG member is elderly or disabled, the gross income must be equal to or less than the gross income limit in Appendix A. If so, the AG qualifies for the disregards and deductions in Section 10.4.B. If the gross income exceeds the amount in Appendix A, the AG is ineligible.

Once eligibility is established, the SNAP benefit amount is determined by the countable monthly income (the amount of income that remains after all exclusions, disregards and deductions have been applied) and the number of individuals in the assistance group (AG).

A Standard Deduction (\$157) is applied to the total non-excluded income counted for the AG.

A monthly rent or mortgage expense, homeowners' insurance, real property taxes and the Standard Utility Allowance (SUA) is deducted from the total non-excluded income. The Heating/Cooling Standard (\$455) is given to households who are responsible for paying their heating expense.

Reported medical expenses in excess of \$35 monthly are deducted from the total non-excluded income for any elderly or disabled AG members.

After all other exclusions, disregards and deductions have been applied, 50% of the remaining income is compared to the total monthly shelter costs and the appropriate SUA. If the shelter costs/SUA exceeds 50% of the remaining income and the AG consists of an elderly or disabled individual, the amount in excess of 50% is deducted.

The remaining income is multiplied by 30% and compared to the maximum benefit level for the size of the AG. The difference is the amount of the AG's SNAP allotment.

West Virginia Income Maintenance Manual §10.1 defines *Elderly* for SNAP as an individual aged 60 and older.

West Virginia Income Maintenance Manual Appendix A lists the gross income limit for a 2-person AG as \$1,736 and the net income limit for an elderly/disabled AG of 2 as \$2,203.

For Adult Medicaid: The Affordable Care Act required a new methodology for determining how income is counted and how household composition and size are determined when establishing financial eligibility for all three Insurance Affordability Programs (IAP) - Medicaid, CHIP and Advance Premium Tax Credits (APTC) through the Exchange. Modified Adjusted Gross Income (MAGI) methodologies apply to individuals whose eligibility for Medicaid is determined for coverage effective on or after January 1, 2014.

West Virginia Income Maintenance Manual §§10.8B and 10.C states that to determine the MAGI household size the following step-by-step methodology is used for each applicant

This methodology must be applied to each applicant in the MAGI household separately:

STEP 1: IS THE APPLICANT A TAX FILER?

IF YES: The applicant's MAGI household includes him or herself, each individual they expect to claim as a tax dependent, and his or her spouse if residing with the tax filer. This is known as the tax filer rule.

MAGI household income is the sum of the MAGI-based income of every individual included in the individual's MAGI household. The MAGI household is determined using the MAGI methodology established above. Income of each member of the individual's MAGI household is counted.

West Virginia Income Maintenance Manual §10.6B states that eligibility is determined on a monthly basis. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. The following information applies to earned and unearned income. For all cases, the Worker must determine the amount of income that can be reasonably anticipated for the Assistance Group (AG). For all cases, income is projected; past income is used only when it reflects the income the client reasonably expects to receive.

The adjusted gross income is then compared to 133% of the Federal Poverty Level (FPL) for the appropriate AG size to determine eligibility for MAGI Medicaid.

West Virginia Income Maintenance Manual Chapter 10 Appendix A lists 133% FPL for an AG of 2 \$1,800.

DISCUSSION

Pursuant to policy, if a SNAP AG consists of at least one person that is elderly or disabled, the AG is not required to meet the gross income test to determine eligibility for SNAP. The Appellant's husband is 60 years old, therefore the Appellant's AG is not required to meet the gross income test.

The Appellant reported paying \$352 yearly, or \$29.33 monthly, in property taxes, and pays the household's heating source of electricity. The Appellant is entitled to the heating/cooling standard utility deduction of \$455 monthly. The Appellant testified that she and her husband have monthly medical expenses now that the Medicaid was terminated. The Appellant, age 54, is not considered elderly as defined by policy, is not entitled to receive a medical deduction for her own medical expenses. The Appellant's husband could receive a deduction for monthly medical expenses in excess of \$35 monthly, however, the Appellant did not verify this deduction so that it could be applied to the household's income.

The net SNAP income for the Appellant's AG, after the allowable deductions were applied, is \$1,596.51. To determine if the Appellant is eligible for a monthly SNAP allotment, 30% of the net income (\$478.95) is compared to the maximum SNAP allotment for a 2-person AG (\$357). Since 30% of the Appellant's net income exceeds the maximum coupon allotment for the size of the Appellant's AG, the Appellant's net income is excessive to continue receiving SNAP benefits.

To qualify for Adult Medicaid benefits, the gross monthly income must be below 133% FPL for the size of the AG. The Appellant's household income of \$2,191.89 exceeds the allowable limit of \$1,800 for a 2-person AG to continue receiving Adult Medicaid benefits.

CONCLUSIONS OF LAW

- 1) Policy stipulates that if the SNAP Assistance Group consists of an elderly individual, only the net income test must be met.
- 2) The Appellant's husband is considered elderly, as defined by policy, therefore all allowable deductions found in policy were applied to the gross income to determine SNAP eligibility.
- 3) Thirty percent of the Appellant's net income exceeded the maximum SNAP coupon allotment for a 2-person Assistance Group, therefore making the Assistance Group ineligible to continue receiving SNAP benefits.
- 4) Pursuant to policy, the gross income limit for a 2-person Assistance Group to be eligible to receive Adult Medicaid benefits is \$1,800.
- 5) The Appellant's husband's monthly gross income from employment is \$2,191.89.

- 6) The income is excessive to continue receiving Adult Medicaid 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 and Adult Medicaid benefits due to excessive income.

ENTERED this 12th day of July 2017

**Kristi Logan
State Hearing Officer**