



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review**

**Jeffery H. Coben, MD
Interim Cabinet Secretary**

**Esta es la decision de su Audiencia Imparcial.
La decision del Departamento ha sido
confirmada/invertido/remitido. Si usted tiene
preguntas, por favor llame a 304-267-0100.**

**Sheila Lee
Interim Inspector General**

May 17, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NOS.: 23-BOR-1499 and 23-BOR-1543

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,

Lori Woodward, J.D.
Certified State Hearing Officer
Member, State Board of Review

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

cc: Ann Hubbard, BFA, WV DHHR

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

██████████,

Appellant,

v.

**Action Number: 23-BOR-1499
23-BOR-1543**

**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 May 16, 2023, on appeals filed April 5, 2023.

The matter before the Hearing Officer arises from the March 29, 2023 decision by the Respondent to reduce the Appellant's monthly Supplemental Nutrition Assistance Program (SNAP) allotment and to close Qualified Individual I (QI-1) Medicaid benefits.

At the hearing, the Respondent appeared by Ann Hubbard, Economic Services Supervisor. The Appellant appeared *pro se*. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 (EDC1) Notice of Closure of Qualified Individual I Medicaid benefits and SNAP decrease, dated March 29, 2023
- D-3 Notice of Annuity Adjustment scanned March 14, 2023
- D-4 Prescription profile scanned March 14, 2023
- D-5 ██████████ Homeowners Insurance payment schedule, statement date February 21, 2023
- D-6 ██████████ County Sheriff's Tax Office Real Property – Tax Year: 2022 receipt
- D-7 eRAPIDS screenshot SNAP Budget begin date June 1, 2023
- D-8 West Virginia Income Maintenance Manual, Chapter 4, §4.4.3.B excerpt
- D-9 West Virginia Income Maintenance Manual, Chapter 4, Appendix A

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 QI-1 Medicaid benefits.
- 2) The Appellant is a recipient of SNAP benefits for a one-person assistance group (AG).
- 3) On March 29, 2023, the Respondent sent notification that the Appellant's QI-1 Medicaid benefits would stop after April 30, 2023 citing the reason as evaluation for another type of Medicaid assistance. (Exhibit D-2)
- 4) The March 29, 2023 notification also stated that the Appellant's SNAP benefits would decrease from \$53 to \$33 as of May 1, 2023 because her shelter and/or utility costs were less. (Exhibit D-2)
- 5) The March 29, 2023 Medicaid and SNAP notifications were incorrect.
- 6) The Appellant remains eligible for, and continues to receive, QI-1 Medicaid benefits. (Exhibit D-1)
- 7) The Appellant's income used in the March 29, 2023 determination of her monthly SNAP allotment was incorrect. (Exhibit D-2)
- 8) Because of a January 2023 Social Security Administration (SSA) Cost-of-Living Allowances (COLA) increase for recipients of Social Security Disability Income (SSDI), the Appellant's monthly SSDI monthly income increased from \$930 to \$1,011. (Exhibit D-1)
- 9) The Appellant receives a monthly federal annuity (hereinafter referred to as "annuity") of \$520. (Exhibit D-3)
- 10) The Appellant's countable monthly gross income (GI) is \$1,531.
- 11) The Appellant is eligible for \$315.66 per month medical expense deduction for SNAP allotment calculations (\$308.53/month health insurance premium + \$7.13/month prescription expenses - less \$35 deductible). (Exhibits D-3, D-4, D-7)

- 12) The Appellant's life insurance premium of \$17.25 is not an eligible deduction for SNAP allotment calculations.
- 13) For SNAP allotment calculations, the Appellant's adjusted income is \$1,057.34 (\$1,531 (GI) - \$193 (standard deduction) - \$315.66 (medical expenses)). (Exhibit D-7)
- 14) The Appellant has a total shelter/utility expense of \$648.78/month for SNAP allotment calculations (\$168.72/month homeowner's insurance + \$45.51/month county property tax + \$435/month utility cost deduction). (Exhibits D-5, D-6, D-7)
- 15) For SNAP allotment calculations, the Appellant's eligible shelter/utility cost deduction is \$120.11 (\$648.78 (shelter/utility expense) - \$528.67 (50% of adjusted income)). (Exhibit D-7)
- 16) The Appellant's net adjusted income for SNAP allotment calculations is \$937.23. (Exhibit D-7)
- 17) The Appellant is eligible for a monthly SNAP allotment of \$23. (Exhibit D-7)

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §273.10(e) explains how net SNAP income and benefit levels are calculated:

(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;

(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 30 percent of net income from the appropriate Thrifty Food Plan, the State agency shall round the allotment down to the nearest lower dollar.

WV IMM, Chapter 4, §4.4.3 explains calculating net income and benefit levels:

4.4.3.A Determining Eligibility

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. If the gross income exceeds the amount in Appendix A, the AG is ineligible. When at least one AG member is elderly, which is at least age 60, or disabled, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. There is no gross income test.

4.4.3.B Determining Countable Income

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
- Step 4: Subtract the Standard Deduction (\$193)
- 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. The Heating/Cooling SUA is \$435.
- Step 10: If the shelter/SUA costs are equal to or less than the amount found in step 9, no further computation is needed, the amount from step 8 is the countable income. If the shelter/SUA costs are greater than step 9, the amount in excess of 50% is deducted to arrive at the countable income. Elderly/disabled households are not subject to the shelter/utility cap.
- Step 11: Compare the countable income to the maximum net income in Appendix A for the AG size.

4.4.3.C Determining the Amount of Benefit

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. No benefits are issued to any AG eligible for an initial, prorated amount less than \$10.

The Worker will determine the benefit amount by using the following method. The eligibility system also uses this method. To determine the SNAP allotment, find the countable income and the maximum benefit allotment for the AG in Appendix A. The Worker will determine the benefit amount by using the following method. The eligibility system also uses this method.

- Multiply net income by 30% (Round up)
- Subtract 30% of net income as calculated above from the maximum monthly benefit for the AG size.

WV IMM, Chapter 1, §1.16.11.B, *SLIMB and QI-1 SLIMB and QI-1*, explains, in part, that the recipients of these benefits do not receive a Medical ID card. Medicaid coverage is limited to payment of Medicare, Part B, premium.

WV IMM, Chapter 23, §23.12.3, *QUALIFIED INDIVIDUAL (QI)*, Income limits are 121 – 135% FPL. The Medicaid coverage is limited to payment of the Medicare Part B premium. An individual or couple (spouses) is eligible for limited* Medicaid coverage when all the following conditions are met:

- The individual must be enrolled in Medicare, Part A. He must be entitled in any of the following three ways:
 - By being age 64 years and 9 months old or older;
 - By having been totally and continuously disabled and receiving RSDI or Railroad Retirement benefits for 24 months or longer; or,
 - By having end-stage renal disease;
- The individual or couple must meet the income test detailed in Chapter 4;
- The individual or couple must meet the asset test detailed in Chapter 5; and
- The individual or couple is not eligible for any full-coverage Medicaid group Medicaid coverage is limited to payment of the Medicare, Part B premium.

WV IMM, Chapter 4, §4.12, *MEDICAID FOR QMB, SLIMB, QI-1 (Categorically Needy, Mandatory)*, §4.12.1, *DETERMINING ELIGIBILITY*, Countable income is determined by subtracting any allowable disregards and deductions from the total countable gross income. Deemed income is addressed in Section 4.12.2 below. Countable income is determined as follows:

- Step 1: Determine the total countable gross unearned income and subtract the appropriate disregards and deductions. See Section 4.14.2.
- Step 2: Determine the total countable gross earned income and subtract the appropriate disregards and deductions. See Section 4.14.2.
- Step 3: Add the results from Step 1 and Step 2 to achieve the total monthly countable income.

Step 4: Compare the amount in Step 3 to the QMB, SLIMB, or QI-1 income levels for the appropriate number of persons. See Section 4.14 for SSI-Related deeming procedures. If the amount is less than or equal to the QMB, SLIMB, or QI-1 income levels, the client(s) is eligible.

Eligibility for these coverage groups is determined as follows:

- QMB – Income is less than or equal to 100% FPL.
- SLIMB – Income is greater than 100% FPL, but less than or equal to 120% FPL. NOTE: Recipients of federal benefits such as Retirement, Survivors, and Disability Insurance (RSDI) may receive periodic cost of living adjustments (COLA). For QMB, SLIMB, and QI-1, the RSDI COLAs are disregarded in determining income eligibility for January and any subsequent months prior to the effective month of the state's Federal Poverty Level (FPL) updates for the year. RSDI and Supplemental Security Income (SSI) increases are handled in accordance with instructions in Chapter 10, Appendices A and B. West Virginia Income Maintenance Manual Chapter 4 West Virginia Income Maintenance Manual Page 181 Chapter 4 Income
- QI-1 – Income is greater than 120% FPL, but less than or equal to 135% FPL. See Appendix A

SNAP gross/net income limit for an AG of 1 is \$1,473/\$1,133 and QI-1 income limit is \$1,459 – \$1,641. (**WV IMM, Chapter 4, Appendix A**)

DISCUSSION

The Appellant is a recipient of SNAP and QI-I Medicaid benefits. On March 29, 2023, the Respondent sent notification to the Appellant that her Medicaid benefits were stopping as of April 30, 2023 because she was being evaluated for another type of medical assistance, and that her SNAP benefits would decrease from \$53 to \$33 as of May 1, 2023 due to a reduction in her shelter and/or utility costs. Both the notices of the Appellant's SNAP reduction amount and Medicaid closure were incorrect.

The Appellant received a January 2023 COLA increase in her SSDI benefits. The Appellant's gross monthly unearned income from the SSA is \$1,011. The Appellant also receives a gross monthly federal annuity of \$520. The Appellant's total gross monthly unearned income is \$1,531. The Appellant remains eligible for QI-1. The Appellant argues that the Respondent should pay for her Medicare Part D premium. However, per policy, QI-1 benefits only pay for a recipient's Medicare Part B premium. The evidence did not show that the Appellant is eligible for any other Medicaid coverage.

SNAP

Monthly SNAP allotments, per policy, are determined by an AG's countable income, after all allowable deductions have been applied. The Appellant is eligible for \$315.66 per month medical expense deduction and a \$193 standard deduction. The Appellant's adjusted monthly income is \$1,057.34. The Appellant's excess shelter/utility expense was determined to be \$120.11, which results in the Appellant's monthly net adjusted income of \$937.23. The Appellant is eligible for the minimum monthly SNAP entitlement of \$23, per policy. The Appellant's monthly SNAP

allotment is determined by multiplying the countable net income by 30% (\$937.23 x 30% equals \$281.10). This amount is subtracted by the maximum coupon allotment for a one-person AG (\$281 minus \$281.10 equals \$0). Because the Appellant has been determined to be categorically eligible, she is entitled to receive the minimum SNAP issuance amount of \$23.

The Appellant does not contest the gross unearned income amounts used. However, she believes she should have had been given a deduction for the \$17.25 life insurance premium deduction from her monthly federal annuity. SNAP policy does not allow for life insurance premiums. The Appellant also argued that her county real property tax was incorrect because the Respondent's representative calculated the average monthly amount by dividing the six month total, she paid for her 2022 property tax, by 6, insisting she paid for the full year. However, the first half and second half amounts were the same, which if added together and divided by 12 months, would still equal the same monthly average. Lastly, the Appellant argued that her prescription expenses should be lower because the pharmacy has not been billing her insurance provider, and she has been trying to get that straightened out. If the Appellant's prescription costs are lower, this would only lower the medical expense deduction, thus possibly increasing her adjusted income.

The Respondent's March 29, 2023 notice regarding the amount of the Appellant's SNAP benefit reduction was incorrect, as was the closure of her QI-1 benefits. The evidence and testimony showed that the Appellant's monthly SNAP benefit allotment should have been reduced from \$53 per month to \$23. Because of the erroneous notifications and no presentation of evidence to show that a corrected notification was sent to the Appellant after discovering these errors, the Respondent's March 29, 2023 decision cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Per policy, monthly SNAP allotments are determined by an assistance group's countable income, after all allowable deductions have been applied.
- 2) The Appellant's gross monthly income is \$1,531.
- 3) The Appellant's total net income, after applying the income deductions found in policy, is \$937.23.
- 4) Thirty percent of the Appellant's countable net income is compared to the maximum coupon allotment for the size of her AG of one.
- 5) The Appellant has been determined to be categorically eligible for the minimum SNAP issuance amount of \$23.
- 6) Per policy, income greater than 120% FPL, but less than or equal to 135% FPL, qualifies for QI-1 Medicaid benefits, or monthly income between \$1,459 - \$1,641.
- 7) The Appellant meets eligibility for QI-1 Medicaid benefits.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's March 29, 2023 decision to close the Appellant's QI-1 Medicaid benefits and determination of the Appellant's SNAP monthly allotment. The case is **REMANDED** for re-calculation of the Appellant's SNAP and Medicaid benefits in accordance with the findings contained in this Decision with proper notice to the Appellant.

ENTERED this 17th day of May 2023.

Lori Woodward, Certified Hearing Officer