



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

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

**Christopher G. Nelson
Interim Inspector General**

February 13, 2024



RE: [REDACTED] v. WV DEPARTMENT OF HUMAN SERVICES BUREAU
FOR FAMILY ASSISTANCE
ACTION NO.: 24-BOR-1067 and 24-BOR-1068

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 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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Tera Pendleton, Office of Constituent Services

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

██████████,

Appellant,

v.

**Action Number: 24-BOR-1067 SNAP
24-BOR-1068 MED**

**WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES
BUREAU FOR 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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on February 6, 2024, on an appeal filed on December 28, 2023.

The matter before the Hearing Officer arises from the December 22, 2023, determination by the Respondent of the Appellant's monthly Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Tera Pendleton, Office of Constituent Services. The Appellant represented herself. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case Comments for December 2023 through January 2024
- D-2 SNAP and Medicaid Application dated November 28, 2023
- D-3 Email from Appellant to Respondent dated December 13, 2023, Paystubs from ██████████, and Mortgage Statement
- D-4 Employment Income Screen and Shelter Costs Screen
- D-5 Non-Financial Eligibility Determination Screen
- D-6 SNAP Budget Screen
- D-7 Case Benefit Summary Screen
- D-8 West Virginia Income Maintenance Manual §§3.2.1.E, 2.5.1 and 3.2.1.C.1

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 applied for SNAP and Medicaid benefits on November 28, 2023 (Exhibit D-2).
- 2) The Appellant reported eight people, including herself, were residing in her household (Exhibit D-2).
- 3) The Appellant reported that [REDACTED] did not purchase and prepare meals with the household (Exhibit D-2).
- 4) The Appellant reported that [REDACTED] was enrolled in college (Exhibit D-2).
- 5) On December 13, 2023, the Appellant submitted her paystubs to the Respondent and reported that [REDACTED] was no longer enrolled in college (Exhibit D-3).
- 6) The Respondent issued a notice of SNAP approval on December 22, 2023, advising the Appellant that her monthly SNAP allotment would be \$375.
- 7) [REDACTED] was not included in the SNAP assistance group as he did not purchase and prepare meals with the household.
- 8) [REDACTED] was not included in the SNAP assistance group for December 2023, as he had already received SNAP benefits that month in another case.
- 9) [REDACTED] was not included in the SNAP assistance group due to her status as an ineligible college student.

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §273.5 explains SNAP eligibility for students:

(a) **Applicability.** An individual who is enrolled at least half-time in an institution of higher education shall be ineligible to participate in SNAP unless the individual qualifies for one of the exemptions contained in [paragraph \(b\)](#) of this section. An individual is considered to be enrolled in an institution of higher education if the individual is enrolled in a business, technical, trade, or vocational school that normally requires a high school diploma or

equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.

(b) ***Student Exemptions.*** To be eligible for the program, a student as defined in paragraph (a) of the section must meet at least one of the following criteria.

- (1) Be age 17 or younger or age 50 or older;
- (2) Be physically or mentally unfit;
- (3) Be receiving Temporary Assistance for Needy Families under Title IV of the Social Security Act;
- (4) Be enrolled as a result of participation in the Job Opportunities and Basic Skills program under Title IV of the Social Security Act or its successor program;
- (5) Be employed for a minimum of 20 hours per week and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receiving weekly earnings at least equal to the Federal minimum wage multiplied by 20 hours. The State agency may choose to determine compliance with this requirement by calculating whether the student worked an average of 20 hours per week over the period of a month, quarter, trimester or semester. State agencies may choose to exclude hours accrued during academic breaks that do not exceed one month. A State agency that chooses to average student work hours must specify this choice and specify the time period over which the work hours will be averaged in its State plan of operation;
- (6) Be participating in a State or federally financed work study program during the regular school year.
 - (i) To qualify under this provision, the student must be approved for work study at the time of application for SNAP benefits, the work study must be approved for the school term, and the student must anticipate actually working during that time. The exemption shall begin with the month in which the school term begins or the month work study is approved, whichever is later. Once begun, the exemption shall continue until the end of the month in which the school term ends, or it becomes known that the student has refused an assignment.
 - (ii) The exemption shall not continue between terms when there is a break of a full month or longer unless the student is participating in work study during the break.
- (7) Be participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer;
- (8) Be responsible for the care of a dependent household member under the age of 6;
- (9) Be responsible for the care of a dependent household member who has reached the age of 6 but is under age 12 when the State agency has determined that adequate child care is not available to enable the student to attend class and comply with the work requirements of [paragraph \(b\)\(5\)](#) or [\(b\)\(6\)](#) of this section;
- (10) Be a single parent enrolled in an institution of higher education on a full-time basis (as determined by the institution) and be responsible for the care of a dependent child under age 12.
 - (i) This provision applies in those situations where only one natural, adoptive or stepparent (regardless of marital status) is in the same SNAP household as the child.
 - (ii) If no natural, adoptive or stepparent is in the same SNAP household as the child, another full-time student in the same SNAP household as the child may qualify for eligible student

status under this provision if he or she has parental control over the child and is not living with his or her spouse.

(11) Be assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the programs identified in [paragraphs \(b\)\(11\)\(i\) through \(b\)\(11\)\(iv\)](#) of this section. Self-initiated placements during the period of time the person is enrolled in one of these employment and training programs shall be considered to be in compliance with the requirements of the employment and training program in which the person is enrolled provided that the program has a component for enrollment in an institution of higher education and that program accepts the placement. Persons who voluntarily participate in one of these employment and training programs and are placed in an institution of higher education through or in compliance with the requirements of the program shall also qualify for the exemption. The programs are:

(i) A program under the Job Training Partnership Act of 1974 ([29 U.S.C. 1501](#), *et seq.*);

(ii) An employment and training program under [§273.7](#), subject to the condition that the course or program of study, as determined by the State agency:

(A) Is part of a program of career and technical education as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 ([20 U.S.C. 2302](#)) designed to be completed in not more than 4 years at an institution of higher education as defined in section 102 of the Higher Education Act of 1965 ([20 U.S.C. 2296](#)); or

(B) is limited to remedial courses, basic adult education, literacy, or English as a second language.

(iii) A program under section 236 of the Trade Act of 1974 ([19 U.S.C. 2296](#)); or

(iv) An employment and training program for low-income households that is operated by a State or local government where one or more of the components of such program is at least equivalent to an acceptable SNAP employment and training program component as specified in [§273.7\(e\)\(1\)](#). Using the criteria in [§273.7\(e\)\(1\)](#), State agencies shall make the determinations as to whether or not the programs qualify.

(c) The enrollment status of a student shall begin on the first day of the school term of the institution of higher education. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).

(d) The income and resources of an ineligible student shall be handled as outlined in [§273.11\(d\)](#).

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.

West Virginia Income Maintenance Manual Chapter 3 explains eligibility determination groups:

3.2.1.E Students

A student is an individual who is enrolled at least half-time in a recognized school, training program or institute of higher education. A student enrolled at an institute of higher education is ineligible to participate in SNAP unless the individual qualifies for one of the exemptions described below.

- An institution of higher education is defined as a business, technical, trade, or vocational school that normally requires a high school diploma or its equivalent for enrollment in the curriculum, or a college or university that offers degree programs whether or not a high school diploma is required for a particular curriculum.
- For this definition, a college includes a junior, community, two-year, or four-year college.

3.2.1.E.2 Exemptions

A student meets an exemption if he is:

- Under age 18;
- Age 50 or over;
- He is physically or mentally unfit for employment. An individual who meets the definition of disability found in Section 13.15 is considered unfit for employment. Other individuals may be considered unfit for employment if it is verified through a written statement from a licensed medical professional or if it is obvious to the worker. An individual who meets the definition of unfit for employment, but not disability, should not be coded as disabled in the eligibility system;
- Participating in an on-the-job training program. This does not include the practical experience requirements that may be part of some courses of study, i.e., student teaching, internships, etc.;
 - A person is considered to be participating in on-the-job training, and thus not considered a student, during the period of time that he is being trained by the employer. He is considered a student, only during the period of time that he is attending classes.
- Employed at least 20 hours per week or 80 hours a month and is paid for the employment. This average must use a 30-day lookback period to determine if the student meets the 80-hour requirement. The 30-day period should be the same as the minimum lookback period for SNAP income;

- Unlike normal work registration, a student cannot substitute wages equivalent to 20 times the minimum hourly wage but must actually work at least 20 hours a week or 80 hours a month, regardless of the amount of wages.
 - However, self-employed persons must be employed at least 20 hours per week or 80 hours a month and receive weekly earnings at least equal to the federal minimum wage multiplied by 20 hours or monthly earnings equal to the federal minimum wage multiplied by 80 hours.
- Participating in a state or federally financed College Work Study (CWS) program during the regular school year;
 - Participation means that the student has been approved for CWS during the school term and anticipates actually working during that time.
 - To qualify for this exemption, the student must be approved for CWS at the time of application.
 - The exemption begins with the month in which the school term begins or the month CWS is approved, whichever is later. Once begun, the exemption continues until the end of the month in which the school term ends, or it becomes known that the student refused an assignment. The exemption does not continue between school terms when there are breaks of a full month or longer, unless the student is participating in CWS during the break.
- Included in a WV WORKS benefit;
- Assigned to or placed in an institution of higher education through one of the following:
 - Workforce Innovation and Opportunity Act (WIOA)
 - Section 236 of the Trade Act of 1974
 - An employment and training program for low-income households that is operated by a state or local government when one or more of the program's components is at least equivalent to SNAP E&T
- Responsible for the care of a child under the age of six;
- Responsible for the care of an AG member who has reached the age of 6 but is under age 12 and adequate child care is not available to enable the student to attend class and satisfy the 20 hour work requirement or participate in a state or federally financed CWS program during the regular school year; or
- Is a single parent (natural, adoptive, or stepparent), regardless of marital status, and is responsible for an AG member under age 12, regardless of the availability of adequate childcare, and is enrolled full-time, as defined by the institution.
 - This applies in situations where only one natural, adoptive, or stepparent, regardless of marital status, is in the same AG with the child.
 - If no natural, adoptive, or stepparent is in the AG with the child, another full-time student in the same AG as the child may qualify for this exemption, if he has parental control over the child.

3.2.1.E.3 Definition of Enrollment and Participation

A student is considered to be enrolled the day he is scheduled to begin classes at an institution of higher education. Enrollment is defined as continuing during normal periods of class attendance, vacation or recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal term (excluding summer school).

3.2.1.C.1 Those Who Do Not Purchase and Prepare Meals Together

Other individuals who share living quarters with the AG, but who do not customarily purchase food and prepare meals and are not required to be included in the AG. These individuals may apply as a separate AG.

West Virginia Income Maintenance Manual Chapter 2 explains common eligibility requirements:

2.5.1 SNAP

No person may receive SNAP benefits in more than one assistance group (AG) for the same month.

West Virginia Income Maintenance Manual Chapter 4 explains SNAP income and deductions:

4.4.2.B Allowable Disregards and Deductions

The following are the only allowable disregards and deductions for the SNAP. They apply to the income of the AG members and any individual sanctioned/penalized due to enumeration, Intentional Program Violation (IPV), failure to comply with a work requirement, or disqualified by law.

4.4.2.B.1 Earned Income Disregard

Twenty percent (20%) of gross countable earned income, including gross profit from self-employment, is disregarded. This disregard is applied to the combined earnings of all members of the AG and to those persons whose income is counted or deemed. It is intended to cover those expenses incidental to employment or training, such as transportation, meals away from home, special clothing, and payroll deductions.

4.4.2.B.2 Standard Deduction

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.

4.4.2.B.3 Dependent Care Deduction

A deduction is allowed for payment for the care of a child or other dependent, when the expense is necessary for an income group member to accept, continue or seek employment or training, or pursue education that is preparatory to employment.

4.4.2.B.4 Child Support Deduction

A deduction is allowed for legally obligated child support actually paid by an AG member or disqualified individual to an individual not residing in the same household.

4.4.2.B.5 Homeless Shelter Standard Deduction

This deduction may be applied when a homeless AG incurs any shelter/utility expenses for the month. Homeless AGs that receive free housing and utilities throughout the month are not eligible for the deduction. However, if they incur any shelter or utility expense, regardless of

the amount, any time during the month, they qualify for the Homeless Shelter Standard Deduction.

4.4.2.B.6 Medical Expenses

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.

4.4.2.B.7 Shelter/Utility Deduction

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 exceed 50% of the remaining income, the amount in excess of 50% is deducted. The deduction cannot exceed the shelter/utility cap found in Appendix B.

4.4.2.C Shelter Expense

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

- Rent.
- Mortgage payments. This includes second mortgages and home equity loans and any other loans for which the dwelling is used as collateral.
- Interest on mortgage payments.
- Condominium and association fees, regardless of purpose for the fees.
- Payments to an escrow account established to pay property taxes and homeowner's insurance.
- 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.
- Insurance on the structure and lot.
- Cost of repairing the home that was damaged or destroyed due to a natural disaster or misfortune including, but not limited to, fire, flood, or freezing temperatures.
- A car payment when a homeless AG lives in their vehicle. Insurance on the vehicle itself when a homeless AG lives in their vehicle.

4.4.2.C.1 Standard Utility Allowance (SUA)

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.

Items not considered utilities include, but 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.

DISCUSSION

Pursuant to policy and federal regulations, monthly SNAP allotments are determined by an assistance group's countable income, after all allowable deductions have been applied. The Appellant disputed the Respondent's calculation of her monthly SNAP allotment. It should be noted that the Appellant did not contest Medicaid eligibility determination for the members of her household therefore Medicaid will not be discussed in this decision.

According to policy, only individuals residing in the same household who purchase and prepare meals together can be included in the same SNAP assistance group. The Appellant reported that [REDACTED] did not purchase and prepare meals with the rest of the household, therefore he was correctly excluded from the SNAP assistance group.

Policy states an individual cannot be in more than one SNAP assistance group in the same month. The Respondent contended that [REDACTED] had already received SNAP benefits in another case for December 2023 but was included in the Appellant's assistance group effective January 1, 2024. The Appellant offered no contradictory testimony regarding [REDACTED] SNAP eligibility for December 2023.

The Appellant did not dispute the Respondent's income calculations used to determine eligibility for her household but argued that [REDACTED] should have been included in the SNAP benefits. On the SNAP application, the Appellant reported that [REDACTED] was enrolled in college. Policy stipulates that a student enrolled at an institute of higher education is ineligible to participate in SNAP unless the individual qualifies for an exemption. Subsequent to the SNAP application, but prior to approval of SNAP benefits, the Appellant reported that [REDACTED] was no longer enrolled in college (Exhibit D-3). The Respondent failed to act on the reported change and excluded [REDACTED] from SNAP benefits. While the Appellant did not report any exemptions for [REDACTED] that may have made her eligible for SNAP benefits in November and December 2023, she should have been included in the SNAP assistance group effective January 1, 2024.

The Appellant argued that the Respondent failed to allow a deduction for utilities, a home confinement fee, afterschool care and activities that her children are enrolled in. The Appellant pays the home heating cost for her household and is entitled to the Heating/Cooling Standard deduction found in policy. Policy does not allow for itemized utility deductions, regardless of the amount paid each month. The Respondent correctly assigned the Heating/Cooling Standard deduction in the eligibility calculations. Policy only allows certain income deductions in determining SNAP benefit levels. Extracurricular activities and a home confinement fee are not allowable income deductions. However, the Appellant testified that her children are enrolled in afterschool childcare programs which may be a potential income deduction once verified. The Appellant did not report the daycare expense on the SNAP application and as such could not be counted as a deduction. Based on the Appellant's testimony, no other income deductions were identified.

Whereas the Respondent failed to take action on the reported change in [REDACTED] status as a college student, her exclusion from the SNAP assistance group effective January 1, 2024, cannot be affirmed.

CONCLUSIONS OF LAW

- 1) A student enrolled at an institute of higher education is ineligible to participate in SNAP unless the individual qualifies for an exemption.
- 2) The Appellant reported that [REDACTED] was no longer enrolled in college in December 2023.
- 3) The Respondent incorrectly excluded [REDACTED] from the SNAP assistance group in January 2024.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Respondent's decision to exclude [REDACTED] from the Appellant's Supplemental Nutrition Assistance Program assistance group. The matter is remanded for recalculation of the Appellant's benefits for January 2024.

Whereas the issue of Medicaid eligibility was not under appeal, the matter is hereby **dismissed**.

ENTERED this 13th day of February 2024.

Kristi Logan
Certified State Hearing Officer