



May 7, 2025

REMOVED

RE: **REMOVED** . WVDohS
ACTION NO.: 25-BOR-1764

Dear **REMOVED**

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: Kristyne Hoskins, BFA

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

REMOVED

Appellant,

v.

Action Number: 25-BOR-1764

**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 **REMOVED**. 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 May 1, 2025, on an appeal filed April 3, 2025.

The matter before the Hearing Officer arises from the March 19, 2025 decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Kristyne Hoskins, Economic Service Worker Senior. Appearing as a witness for the Respondent was Victoria Petro, Economic Service Worker Senior. The Appellant appeared self-represented. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

None

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 failed to verify shelter expenses for calculation of April 2025.
- 3) The Appellant received \$95.00 in SNAP benefits for April 2025.
- 4) The Appellant verified her shelter cost of \$50.00 prior to the issuance of May 2025 SNAP benefits.
- 5) The Appellant's SNAP benefits increased to \$110.00 for May 2025.
- 6) The Appellant receives monthly Supplemental Security Income in the amount of \$285.00.
- 7) The Appellant receives a monthly disability benefit from the Social Security Administration in the amount of \$692.00.
- 8) The Appellant receives the maximum Shelter Utility Allowance of \$504.00.
- 9) The Appellant's Supplemental Security Income is reduced by \$96.70 due to a previous overissuance.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 4.4.4.L.2 documents:

Treatment of unearned income depends on the reason it is being withheld and the government program, if any, involved.

- Means-tested Programs Means-tested programs include, but are not limited to, WV WORKS, SSI, HUD, and Pell educational grants. When a client's benefits under a federal or State means-tested program are reduced due to the client's intentional misrepresentation, the amount being recouped from current benefits is counted as income. When intentional misrepresentation cannot be documented by the means-tested program, the income is not counted. The Worker must accept the determination of the program issuing the benefit that was reduced, suspended, or terminated as the final authority for the determination of intentional misrepresentation. If the determination is not specifically identified and documented by the other program, the policy in this section is not applied. The Worker must not make a judgment about whether or not the client's actions constitute intentional misrepresentation. If the Worker is unable to obtain information from another program outside DOHS, the policy in this section must not be applied. The Worker must document efforts to obtain such information, including information received from the client or copies of appropriate

correspondence, if any, filed in the case record. This is necessary to avoid Quality Control (QC) errors for noncompliance with the policy.

When means-tested income is SSI, the agency must not contact the SSA to obtain information about SSI recipients who had withholding from their payments due to an overpayment of SSI benefits. Any other recoupment is not counted as income when voluntarily or involuntarily withheld to repay a prior overpayment received from that same source, if the income was counted or would have been counted in the month received.

- Non-means Tested Programs Unearned income sources that are not-means tested include, but are not limited to, RSDI and Workers' Compensation. Any recoupment is not counted as income when voluntarily or involuntarily withheld to repay a prior overpayment received from that same source, if the income was counted or would have been counted in the month received.
- Garnishment Income that is withheld for any reason not listed above including, but not limited to, child support or legal fees is counted.

Code of Federal Regulations Chapter 7 § 273.9(2)(5)(i) documents:

(5) Income shall not include the following:

Moneys withheld from an assistance payment, earned income, or other income source, or moneys received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided that the overpayment was not excludable under [paragraph \(c\)](#) of this section. However, moneys withheld from assistance from another program, as specified in [§ 273.11\(k\)](#), shall be included as income.

DISCUSSION

The Appellant requested this fair hearing as a dispute to the calculation of her monthly SNAP benefit allotment. Specifically, the Appellant contends that the Respondent utilized the incorrect amount of unearned income to determine her eligibility for SNAP benefits. The Respondent must prove by a preponderance of the evidence that it utilized the correct unearned income in determining the Appellant's SNAP eligibility.

Neither party provided evidence to support their testimony during this proceeding.

Previously, the Appellant's SNAP benefits were reduced for April 2025, when the Appellant failed to verify shelter cost expenditures. However, the Appellant's benefits were increased, effective May 2025, to \$110.00. In determining the Appellant's eligibility, the Respondent utilized a total monthly income of \$285.00 from SSI and a monthly disability payment of \$692.00 from the Social Security Administration. The total monthly unearned income was calculated at \$977.00. Victoria

Petro, Economic Service Worker, testified that although the Appellant receives \$285.00 in SSI benefits, the Appellant is subject to an overpayment of \$96.70, which is deducted from her total gross SSI payment. Ms. Petro indicated that information about the overpayment was unavailable to the Respondent and no testimony was provided concerning the reason or classification of the overpayment. Ms. Petro indicated that the Respondent utilized the Appellant's total gross income from SSI in the amount of \$285.00 in determination of the monthly SNAP allotment.

The Appellant testified that the reduction of her SSI income was due to an overpayment. The Appellant disputes the use of the gross SSI amount in the determination of the SNAP allotment. The Appellant referred to a class action lawsuit in the State of [REDACTED] concerning SSI and overpayments but failed to provide specific details of the suit to support her testimony.

Governing policy concerning the treatment of withheld income is dependent on the type of unearned income and the government program from which the income is issued. SSI is determined to be a means tested income. When benefits under a means tested income program, such as SSI, are reduced due to an individual's intentional misrepresentation, the amount being recouped from current benefits is counted as income. When intentional misrepresentation cannot be documented by the means-tested program, the income is not counted. Any other recoupment is not counted as income when voluntarily or involuntarily withheld to repay a prior overpayment received from that same source. Furthermore, policy prohibits the agency from investigating the reasons concerning withheld income with the Social Security Administration when means-tested income is SSI.

No evidence was provided to determine the classification of the Appellant's SSI overpayment; therefore, it is inconclusive to determine whether the income reduction was due to an intentional misrepresentation. Because policy prohibits the agency from investigating the reasons concerning withheld income with the Social Security Administration, it can be reasonably assumed such reduction of the Appellant's SSI, should be considered a standard repayment and should not be counted as income in the determination of the Appellant's SNAP eligibility.

Based on an evidentiary review, the Respondent was incorrect in its determination of unearned income utilized in the determination of the Appellant's SNAP eligibility.

CONCLUSIONS OF LAW

- 1) Policy requires that when benefits under a means tested income program are reduced due to intentional misrepresentation, the amount being recouped from benefits is counted as income.
- 2) Policy requires any other recoupment is not counted as income when voluntarily or involuntarily withheld to repay a prior overpayment received from that same source, if the income was counted or would have been counted in the month received.
- 3) Policy requires when means-tested income is SSI, the agency must not contact the SSA to obtain information about SSI recipients who had withholding from their payments due to an overpayment of SSI benefits.

- 4) The Appellant receives SSI benefits which she is subject to a repayment for a previous overissuance.
- 5) There was no evidence to support that the overissuance of SSI benefits was due to intentional misrepresentation.
- 6) The repayment amount should not be counted as income when determining the Appellant's eligibility for SNAP benefits.

DECISION

It is the decision of the State Hearing Officer to REVERSE the decision of the Respondent to utilize total gross unearned income in determining the Appellant's eligibility for SNAP benefits.

This matter is REMANDED to the Respondent for a review and recalculation of the Appellant's eligibility for SNAP benefits.

ENTERED this ____ day of May 2025.

Eric L. Phillips
State Hearing Officer