



May 28, 2025

REMOVED

RE: **REMOVED** v. WV DoHS/BFA
ACTION NO.: 25-BOR-1902

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 (DoHS). 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,

Tara B. Thompson, MLS
State Hearing Officer
Member, State Board of Review

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

cc: Rachell Hruschak, **REMOVED** DoHS

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

REMOVED

Appellant,

v.

Action Number: 25-BOR-1902

**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 **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 21, 2025.

The matter before the Hearing Officer arises from the Respondent's February 26, 2025 decision to reduce the amount of the Appellant's monthly Supplemental Nutrition Assistance Program allotment.

At the hearing, the Respondent was represented by Rachell Hruschak, Economic Service Worker. The Appellant appeared and was self-represented. All present were placed under oath and the following exhibits were submitted to the record:

Department's Exhibits:

- D-1 DoHS Notice, dated January 27, 2025
- D-2 DoHS Notice, dated February 26, 2025
- D-3 West Virginia Income Maintenance Manual (WVIMM) Excerpts:
 - Income Chart
 - Chapter 1, Appendix A
 - § 4.4.3 and § 4.4.4 excerpts

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) After the Appellant's January 2025 Supplemental Security Income (SSI) Cost-of-Living Adjustment (COLA), the Appellant received \$927 monthly SSI.
- 2) On February 26, 2025, the Respondent issued a notice advising the Appellant his one-person Assistance Group (AG) was eligible for a \$136 monthly SNAP allotment (Exhibit D-2).
- 3) The Respondent's February 26, 2025 decision was based on the Appellant's receipt of \$927 gross SSI unearned income (Exhibit D-2).
- 4) The Respondent applied a \$204 standard deduction and \$203.69 shelter/utility deduction to arrive at the Appellant's \$519.31 net adjusted income (Exhibit D-2).
- 5) On November 15, 2023, the Appellant verified his shelter and utility costs.
- 6) During the hearing, the Appellant reported his shelter and utility costs have increased.
- 7) For a one-person AG, \$292 is the maximum monthly SNAP allotment (Exhibit D-3).

APPLICABLE POLICY

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 that contain an elderly or disabled member shall meet the net income eligibility standards for SNAP. Households that 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 that 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:
- (2) The net 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, Alaska, and 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.
- ii. The annual income poverty guidelines shall be divided by 12 to determine the monthly net income eligibility standards, rounding upwards as necessary.

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

- 1) *Standard deduction –*
 - i. Effective October 1, 2022, in the 48 States ..., 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
- (6) *Shelter costs - ...*
 - ii. *Excess shelter deduction.* Monthly shelter expenses exceed 50 percent of the household's income after all other deductions have been allowed. If the household does not contain an elderly or disabled member, the shelter deduction cannot exceed the maximum shelter deduction limit established for the area.
 - iii. *Standard utility allowances.*
 - A. With FNS approval, State agencies may develop 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, sewage, well and septic tank installation and maintenance, telephone, and garbage or trash collection. The LUA must include expenses for at least two utilities.

Code of Federal Regulations 7 CFR § 273.10 *Determining household eligibility and benefit levels* provides in the relevant sections:

- (a) *Month of application –*
 - (1) *Determination of eligibility and benefit levels.*
 - i. A household's eligibility shall be determined for the month of application by considering the household's circumstances for the entire month of application. Most households will have the eligibility determination based on circumstances for the entire calendar month in which the household filed its application ...
 - 2) *Application for recertification.* Eligibility for recertification shall be determined based on circumstances anticipated for the certification period starting the month following the expiration of the current certification period. The level of benefits for recertifications shall be based on the same anticipated circumstances ...
- (d) *Determining deductions.* Deductible expenses include only certain dependent care, shelter, medical and, at State agency option, child support costs
- (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 earned and unearned income of all household members, minus income exclusions, to determine the household's total gross income ...
 - C. Subtract the standard deduction
 - D. If the household is entitled to an excess medical deduction, determine if total medical expenses exceed \$35. If so, subtract that portion which exceeds \$35....
 - E. 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% 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 (e)(1)(i)(l) of this section.
 - F. 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 application 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 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.

(2) *Eligibility and benefits –*

- i.
 - A. Households that contain an elderly or disabled member shall have their net income, as calculated in paragraph (e)(1) 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.
- ii.
 - A. The household's monthly allotment shall be equal to the maximum SNAP allotment for the household's size reduced by 30% of the household's net monthly income. If 30 percent of the household's net income ends in cents, the State agency shall round in 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 the 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.

(4) *Thrifty Food Plan (TFP) and Maximum SNAP Allotments.*

- i. The TFP amounts and maximum allotments in each area are adjusted annually and will be prescribed in a table posted on the FNS website at www.fns.usda.gov/fsp.

[From October 1, 2024, through September 30, 2025, for a one-person household \$292 is the maximum monthly allotment. (www.fns.usda.gov/snap/recipient/eligibility)].

Code of Federal Regulations 20 CFR § 416.405 Supplemental Security Income for the Aged, Blind, and Disabled– Cost-of-living adjustments in benefits provides:

Whenever benefit amounts under title II of the Act (part 404 of this chapter) are increased by any percentage effective with any month as a result of a determination made under Section 215(i) of the Act, each of the dollar amounts in effect for each month under §§ 416.410, 416.412, and 416.413, as specified in such sections or as previously increased under this section or under any provision of the Act, will be increased. We will increase the unrounded yearly SSI benefit amount by the same percentage by which the title II benefits are being increased based on the Consumer Price Index, or, if greater, the percentage they would be increased if the rise in the Consumer Price Index were currently the basis for the title II increase. (See §§ 404.270-404.277 for an explanation of how the title II cost-of-living adjustment is computed.) If the increased annual SSI benefit amount is not a multiple of \$12, it will be rounded to the next lower multiple of \$12.

WVIMM Chapter 4 Appendix A-Income Chart provides that the maximum benefit allotment for a one-person AG is \$292.

WVIMM Chapter 4 Appendix B – Standard Deductions and Allowances for SNAP (October 2024) provides that for a one to three-person AG, the standard deduction is \$204. The Heating/Cooling Standard (HCS) is \$504.

WVIMM § 4.2 Definitions provides that Cost-of-Living Adjustments (COLA) are adjustments to entitlement benefits, pensions or other retirement income such as Retirement, Survivors, and Disability Insurance (RSDI), Black Lung and Railroad Retirement.

WVIMM § 10.4.2.B.2 Sources That Are Considered Reported and § 10.4.2.B.4 Unclear Information provides that communication from an AG member to report a change is considered a reported change for SNAP that requires follow up. The Worker is required to pursue clarification and required verification of unclear information related to reported changes. Additional information requested from the applicant is due 10 calendar days from the date of the DFA-6 or verification checklist.

WVIMM § 10.4.3.A.2 Effective Date of the Change — Increase in Benefits, All other Changes provides that for reported changes that result in an increase in benefits, changes are made as follows:

- If the next issuance date is more than 10 days after the date of the change is reported, the change is effective the month following the report month.
- If the next issuance date is within 10 days of the date the change is reported, the change is effective two months after the reported month.

The ten-day period includes the date of the report and takes the staggered benefit issuance date into consideration.

WVIMM § 10.4.4.D Cost-of-Living Adjustments (COLAs) in Federal Benefits provides that the recipients of federal benefits, such as RSDI, SSI, Black Lung, or VA Benefits, may receive periodic COLAs. RSDI/SSI increases are handled in accordance with instructions in Appendix A of this chapter. All other federal benefit COLAs are treated as any other change, except that the client is not required to report the change.

WVIMM Chapter 10, Appendix A: RSDI/SSI Increases 2025 provides that SSI recipients receive a cost-of-living adjustment (COLA) of 2.5% in January 2025. The new monthly maximum federal SSI payment levels for 2025 are \$967 for a single person and \$1,450 for a couple.

WVIMM Chapter 10, Appendix A.1 The RSDI/SSI COLA Update Process provides that the annual COLA mass change occurred on January 25, 2025. For individuals whose SSI income has been entered into the eligibility system, the automatic update is effective March 2025. Any AG that becomes ineligible for a benefit because of the update will not receive that benefit after February 2025.

WVIMM § 4.3.1.85 Charts of Income Sources — Chart 1 SSI provides that for SNAP, SSI is counted as unearned income.

WVIMM § 4.4.3.C Determining the Amount of the Benefit provides in part:

To determine the SNAP allotment, find the countable income and the maximum benefit allotment for the AG in Appendix A. One-person or two-person AGs who are categorically eligible automatically receive the minimum SNAP benefit. The Worker will determine the benefit amount by using the following method:

Multiply net income by 30% (round up):

$$\begin{array}{r} \text{EXAMPLE: } \$ 554 \text{ Net monthly Income} \\ \times .30 \\ \hline \$ 166.30 = \$167 \end{array}$$

Subtract 30% of the net income as calculated from the maximum monthly benefit for the AG size.

$$\begin{array}{r} \text{EXAMPLE: } \$973 \text{ Maximum Allotment for four} \\ - 167 \text{ 30% of net income} \\ \hline \$806 \text{ SNAP benefit for a full month} \end{array}$$

WVIMM § 4.4.2.B.2 Standard Deduction provides that 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.

WVIMM § 4.4.2.B.7 *Shelter/Utility Deduction* provides:

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.

WVIMM § 4.4.2.C *Shelter Expense* provides:

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.

WVIMM § 4.4.2.C.1 *Standard Utility Allowance (SUA)* provides that 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 their 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 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 regularly 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.

WVIMM § 4.4.4.A *Categorical Eligibility* provides that although there is no gross or net income test, countable SNAP income to determine the level of benefit is calculated the same way it is for all other SNAP AGs.

DISCUSSION

On February 26, 2025, the Respondent decided the Appellant's monthly SNAP allotment would be \$136, beginning in March 2025. The Appellant protested the allotment amount and requested an explanation about why his SNAP benefits decrease when he receives an SSI COLA increase. At the onset of the hearing, the Appellant requested a decision be made about whether the Respondent followed the policy when calculating his monthly SNAP allotment amount.

The Appellant disputed the guidelines used by the Respondent when calculating his SNAP eligibility. A judgement cannot be made on the policy and the Hearing Officer may only determine whether the agency followed the policy when deciding the amount of the Appellant's monthly SNAP allotment. Maximum SNAP allotments are adjusted annually and posted on the U.S. Department of Agriculture Food and Nutrition Service (FNS) website. From October 1, 2024 through September 30, 2025, \$292 is the maximum monthly SNAP allotment available to a one-person AG. The Respondent's policy reflects the federally set \$292 maximum monthly SNAP allotment.

SNAP ALLOTMENT

To prove that the Respondent's February 26, 2025 SNAP allotment decision was accurate, the preponderance of evidence had to reveal that the Appellant was eligible for \$136 in monthly SNAP benefits. During the hearing, the Appellant did not dispute that he received \$927 monthly SSI but testified he did not understand the Respondent's calculations. The Appellant argued that the Respondent was not able to provide regulations stating who makes the guidelines that indicate his SNAP allotment should decrease when his SSI increases.

According to the policy, Cost-of-Living Adjustments (COLAs) are adjustments made to the Appellant's SSI allotment. 20 CFR § 416.405 provides that annually, COLA increases are federally decided based on the Consumer Price Index. The Respondent's policy provides that SSI recipients receive a 2.5% COLA increase in January, and that March is the first month the SNAP recipient's benefits are affected. Pursuant to the policy, SSI must be counted as unearned income.

Therefore, the Respondent correctly used the Appellant's increased monthly SSI to determine his March 2025 SNAP allotment amount.

According to the policy, the SNAP allotment is calculated as follows:

The \$204 standard income deduction is applied to the AG's income as indicated in the regulations. Because the Appellant did not have earned income, only the AG's unearned income was considered.

\$927	Unearned income
<u>-204</u>	Standard income deduction
\$723	Adjusted income

To determine the amount of the shelter deduction, the AG's shelter costs must be combined with the applicable utility standard for the AG size. Pursuant to 7 CFR § 273.9(d), the Respondent has the authority to develop standard utility allowance standards to be used in place of actual costs when determining a household's excess shelter deduction. According to WVIMM Chapter 4, Appendix B, the HCS is \$504 for a one-person AG.

During the hearing, the Respondent's worker testified that the SNAP allotment was calculated using \$61.19 monthly shelter costs verified during the Appellant's November 15, 2023 SNAP eligibility review. The Appellant did not dispute the amount of shelter/utility costs reflected in the Respondent's record but reported that his costs had increased. Because the Appellant's increased shelter costs were not reported until the hearing, additional deductions could not be applied at the time of the Respondent's February 26, 2025 SNAP allotment decision. Therefore, the Hearing Officer can only consider the shelter/utility costs that were verified at the time of the Respondent's allotment decision.

\$ 61.19	AG's monthly shelter costs
<u>+504.00</u>	Utility Standard
\$565.19	Shelter/Utility costs

The policy instructs that 50% of the adjusted income must be subtracted from the shelter/utility costs:

$$\$723 \div 2 = \$361.50 \text{ (50% Adjusted income)}$$

To determine the amount of excess shelter utility costs, 50% of the adjusted income is subtracted from the shelter/utility costs:

\$565.19	Shelter/Utility costs
<u>-361.50</u>	50% of Adjusted gross income
\$203.69	Excess shelter utility costs (shelter/utility deduction)

To determine the net adjusted income, the shelter/utility excess costs are subtracted from the adjusted income.

\$723	Adjusted income
<u>-203.69</u>	Excess shelter utility costs
\$519.31	Net adjusted income

Then, thirty percent of the net adjusted income must be calculated.

\$519.31	Net adjusted income
<u>X .30</u>	
\$155.793	

Under the regulations, if 30% of the household's net income ends in cents, the State agency shall round 30% of net income up to the nearest higher dollar; or not round the 30% of the net income at all. Instead, after subtracting 30% of the net income from the appropriate AG allotment, the State agency shall round the allotment down to the nearest lower dollar.

To determine the amount of the SNAP allotment, 30% of the net adjusted income is subtracted from the maximum SNAP allotment for the AG size. During the February 26, 2025 SNAP allotment decision, \$292 was the maximum SNAP allotment for a one-person AG.

\$292	Maximum SNAP allotment for a one-person AG
<u>-155.793</u>	30% of Net adjusted income
\$136.207	Monthly SNAP allotment

After rounding the allotment down to the nearest lower dollar, the Appellant's monthly SNAP benefit allotment is \$136, which is consistent with the Respondent's February 26, 2025 SNAP allotment decision.

As the Appellant reported a change in shelter/utility costs during the hearing, the Respondent's worker should take note of the policy, seek verification of the reported change, and reevaluate the Appellant's monthly SNAP allotment once verification is submitted.

CONCLUSIONS OF LAW

- 1) Monthly SNAP allotments are determined by an AG's countable income after allowable deductions have been applied.
- 2) For determining SNAP eligibility, SSI is counted as unearned income.
- 3) The preponderance of evidence revealed the Respondent correctly considered the Appellant's SSI COLA increase when calculating his monthly SNAP allotment.
- 4) The preponderance of evidence revealed that the Respondent correctly calculated the Appellant's \$136 monthly SNAP allotment, beginning in March 2025.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's February 26, 2025 decision regarding the Appellant's \$136 monthly SNAP allotment.

ENTERED this 28th day of May 2025.

Tara B. Thompson, MLS
State Hearing Officer