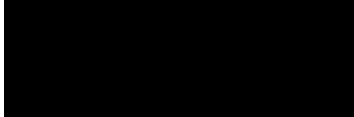




December 3, 2025



RE: [REDACTED] v. WV DoHS/BFA
ACTION NOS.: 25-BOR-3071 and 25-BOR-3171

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 (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
Certified State Hearing Officer
Member, State Board of Review

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

cc: Pamela Trickett, Justin Thorne, Sarah Austin — [REDACTED] County DoHS

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

[REDACTED]

Appellant,

v.

**Action Numbers: 25-BOR-3071 and
25-BOR-3171**

**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 [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the Office of Inspector General Common Chapters Manual. This combined fair hearing was convened on November 19, 2025.

The matter before the Hearing Officer arises from the Respondent's decision on October 6, 2025, to deny the Appellant's Medicaid eligibility, and decision on October 15, 2025, to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefit allotment.

At the hearing, the Respondent appeared by Sarah Austin, [REDACTED] County DoHS. The Appellant appeared and was self-represented. All witnesses were placed under oath, and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 DoHS Case Comments
- D-2 Medicaid Review Form (MREV), submitted on August 29, 2025
- D-3 DoHS Combined SNAP/ Medicaid Notice, dated October 14, 2025
- D-4 Appellant's Paystubs, dated September 12, September 26, and September 10, 2025
- D-5 West Virginia Income Maintenance Manual (WVIMM) Chapter 4, Appendix A
- D-6 WVIMM Chapter 1 policy excerpts
- D-7 WVIMM Chapter 3 policy excerpts
- D-8 WVIMM Chapter 4 policy excerpts
- D-9 WVIMM Chapter 23 policy excerpts
- D-10 DoHS Case Comments

- D-11 DoHS Notice, dated October 15, 2025
- D-12 Verification Checklist, dated October 29, 2025
- D-13 Appellant's Paystubs, dated September 12, September 26, and September 10, 2025
- D-14 Appellant's Lease Agreement, signed January 7, 2025
- D-15 Child Support Court Order
- D-16 WVIMM Chapter 4, Appendix A Income Chart
- D-17 WVIMM Chapter 1 excerpts
- D-18 WVIMM Chapter 3 excerpts
- D-19 WVIMM Chapter 4 excerpts

Appellant's Exhibits:

- A-1 Appellant's record of paid child support via Cash App

FINDINGS OF FACT

MEDICAID

- 1) On August 29, 2025, the Respondent received the Appellant's Medicaid review form. However, the Respondent did not process the Appellant's review form until October 3, 2025 (Exhibit D-1).
- 2) On his Medicaid Review Form, the Appellant reported \$605 bi-weekly earned income from employment at R&R Transit, beginning on September 4, 2024 (Exhibit D-2).
- 3) The Appellant reported \$881.00 monthly income from the Social Security Administration (SSA) (Exhibit D-2).
- 4) On October 3, 2025, Respondent supervisor ESS307 recorded, "used client statement for earned income added soc sec disability verified in solq," and "used client stated income as over" (Exhibit D-1).
- 5) On October 6, 2025, the Respondent issued a notice advising the Appellant his Medicaid eligibility was denied, effective October 1, 2025, because his income exceeded the eligibility limit.
- 6) The *Statement of Calculation* provided on the notice issued on October 6, 2025, reflected \$1,300 earned income and \$881 unearned income.
- 7) The MAGI income limit listed on the notice was \$1,735.
- 8) The Respondent did not apply any income deductions when calculating the Appellant's Medicaid eligibility.

SNAP

- 9) On October 14, 2025, the Respondent issued a notice advising the Appellant his monthly SNAP allotment was \$121, beginning on October 10, 2025 (Exhibit D-3).
- 10) On September 12, 2025, the Appellant received \$790 gross earned income, including tips (Exhibit D-4).
- 11) On September 26, 2025, the Appellant received \$995 gross earned income, including tips (Exhibit D-4).
- 12) On October 10, 2025, the Appellant received \$1,035 gross earned income, including tips (Exhibit D-4).
- 13) On October 9, 2025, Respondent Worker EW30BK was unable to verify the Appellant's child support information via the Respondent's data exchanges and verbally requested that the Appellant provide a copy of his court order.
- 14) On October 9, 2025, the Appellant submitted his lease to verify \$800 monthly rent and his divorce decree to verify \$193.00 weekly child support expenses (Exhibits D-1 and D-14).
- 15) The Appellant is court ordered to pay child support through [REDACTED] County Probation Department, beginning on November 18, 2021 (Exhibit D-15).
- 16) On October 10, 2025, the Appellant applied for SNAP benefit eligibility for a one-person Assistance Group (AG) (Exhibit D-10).
- 17) On October 10, 2025, Respondent Worker EW30BK recorded the Appellant received RSDI, verified by the State On-Line Query (SOLQ) data exchange, and [REDACTED] earned income, verified by paystubs (Exhibit D-11).
- 18) On October 10, 2025, Respondent Worker EW30BK recorded the Appellant's expenses as "Rent, as verified by lease; child support, as verified by court order, and electric, gas, water, and phone" (Exhibit D-10).
- 19) On October 10, 2025, the Respondent approved the Appellant for \$174 in monthly SNAP allotment (Exhibit D-10).
- 20) On October 15, 2025, the Respondent issued a notice advising the Appellant his SNAP benefits would decrease from \$174.00 to \$24.00, beginning on November 1, based on \$2,021 gross monthly earned income, and \$881.00 gross monthly unearned income (Exhibit D-11).
- 21) When making the decision on October 15, 2025, the Respondent applied a deduction of \$772.00 in child support payments.
- 22) The Respondent incorrectly used the court order to establish the child support payment deduction rather than verifying the actual amount of child support paid.

APPLICABLE POLICY

MEDICAID

West Virginia Income Maintenance Manual (WVIMM) § 4.3.2 *Countable Sources of Income* provides that for determining Modified Adjusted Gross Income (MAGI) Medicaid Adult Group eligibility, social security benefits, bonuses and awards, wages, salaries, and tip income are countable sources of income.

WVIMM § 4.6.1.B *Consideration of Past Income* provides in relevant sections:

Step 1: Determine the amount of income received by all persons in the Income Group (IG) in the 30 calendar days before the redetermination date ... When, in the Worker's judgment, future income may be more reasonably anticipated by considering the income from a longer period, the Worker considers income for the time period he determines to be reasonable ...

Step 2: Determine if the income from the previous 30 days is personally expected to continue into the new certification period ... If the income is expected to continue, determine if the amount is reasonably expected to be more or less the same ...

WVIMM § 4.6.1 *Budgeting Method* and § 4.6.1.A *Methods for Reasonably Anticipating Income*, provide that to determine the household's income for the certification period or period of consideration, a monthly amount of income must be calculated. For all cases, income is projected; past income is used only when it reflects the income the client reasonably expects to receive during the certification period.

Past income is used only when income from the source is expected to continue into the certification period and the amount of income from the same source is expected to be more or less the same. For these purposes, the same source of earned income means income from the same employer, not just the continued receipt of earned income.

WVIMM § 4.6.1.D *How to Use Past and Future Income* provides that the Worker determines the amount of monthly income based on the frequency of receipt and whether the amount is stable or fluctuates. The purpose of finding an average amount of fluctuating income is to even out the highs and lows in the amount of income. The client is not, then, required to report fluctuating income each pay period and the Worker is not required to change income monthly.

When the income is received more often than monthly and the amount fluctuates, the Worker must convert the amount per pay period to a monthly amount by finding the average amount per period and converting it to a monthly amount. To convert a biweekly amount, the Worker must multiply an actual or averaged amount by 2.15.

WVIMM §§ 23.10.4 Adult Group and Chapter 4, Appendix A, Income Chart provides that to be eligible for Adult Group Medicaid benefits, the income must be equal to or below 133% FPL. For a one-person AG, 133% of the FPL is \$1, 735.

WVIMM §§ 10.6.5.A-B Assistance Group (AG) Closures and § 10.8.1 Change in Income provide that when the client's income changes to the point that he becomes ineligible, the AG is closed. The Department is required to consider the individual's Medicaid eligibility under other coverage groups prior to notifying the individual that Medicaid eligibility will end. Advanced notice is required for any adverse action.

WVIMM § 9.3.1 Advance Notice Requirements, §9.3.1.A. Adverse Action Requiring Advance Notice, and § 9.3.1.C Beginning and Ending of the Advance Notice Period provides in relevant sections:

When a Medicaid AG is closed, the Respondent must mail advanced notice to the client at least 13 days before the first day of the month in which the benefits are affected. The 13-day advance notice period begins with the date shown on the notification letter. It ends after the 13th calendar day has elapsed.

SNAP

Code of Federal Regulations 7 CFR § 273.9(b)(1)(i) Definition of income provides that household earned income includes all wages and salaries of an employee.

Code of Federal Regulations 7 CFR 273.9(c)(2) provides that any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 in a quarter, may be excluded.

Code of Federal Regulations 7 CFR § 273.9 Income and deductions provides that households which contain an elderly or disabled member shall meet the net income eligibility standards for SNAP Households which are categorically eligible do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels.

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 ...

(d) *Determining deductions.* Deductible expenses include only certain dependent care, shelter, medical and, at State agency option, child support costs

West Virginia Income Maintenance Manual (WVIMM) §§ 4.3.1(30)(j), 4.3.1(73), 4.3.1(82), and 4.3.1(85) *Countable Sources of Income* provides that wages are counted as earned income when determining SNAP eligibility. Social Security Payments, Supplemental Security Income (SSI), and Retirement, Survivors, and Disability Insurance (RSDI) are counted as unearned income.

WVIMM § 4.4.1.D *How to Use Past and Future Income* provides that when the income is received more often than monthly and the amount fluctuates, the Worker must convert the amount per pay period to a monthly amount by finding the average amount per period and converting it to a monthly amount. To convert a biweekly amount, the Worker must multiply an actual or averaged amount by 2.15.

WVIMM § 4.4.2.B.4 *Child Support Deduction* provides that 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. In the State of West Virginia, legally obligated means the child support is the result of a circuit or magistrate court order, an order issued by administrative process, or a legally enforceable separation agreement. For orders issued in other states, any order that would be upheld by a Judge in a court of law is considered legally obligated.

Legally obligated child support includes cash or in-kind payments, payments on arrearages, and payments for medical insurance premiums to cover the dependent child. If the dependent child is included in the parent's medical coverage at no extra cost, no deduction is allowed. If the parent must also enroll in order to cover the child, the total premium amount is used as a deduction. Alimony, spousal support, and payments made in accordance with a property settlement are not deducted.

A deduction is allowed based only on payments actually made, not the legally obligated amount, and may not exceed the legal obligation. Child support paid to a child support agency and retained by the agency is deducted, even when the individual who pays the support resides with the person to whom the payment would customarily be paid. When the AG member pays the support to the agency and it is forwarded to an individual who resides in the same household, a deduction is not given.

WVIMM § 1.4.1.A *Failure to Provide Requested Verification* provides that if an applicant AG fails to provide the verifications requested on the DFA-6 or verification checklist within the specified time limit, the application is denied.

WVIMM § 7.2.1 *When Verification is Required* provides that verification of a client's statement is required when the information provided is questionable. To be questionable, it must be:

- inconsistent with other information provided; or
- inconsistent with the information in the case file; or
- inconsistent with information received by the DoHS from other sources; or
- incomplete; or
- obviously inaccurate; or
- outdated

WVIMM § 7.2.3 *Client Responsibilities* provides that the primary responsibility for providing verification rests with the client. It is an eligibility requirement that the client cooperate in obtaining necessary verifications. The client is expected to provide information to which he has access and to sign authorizations needed to obtain other information.

Failure of the client to provide necessary information or to sign authorizations for release of information results in a denial of the application or closure of the active case.

DISCUSSION

On October 6, 2025, the Respondent determined that the Appellant's income exceeded the Adult Medicaid eligibility limit. The Appellant argued that his tips should not be included in the Respondent's eligibility calculations and requested that he be determined eligible. On October 15, 2025, the Respondent issued a notice advising the Appellant his SNAP benefits would decrease from \$174.00 to \$24.00, beginning on November 1, based on \$2,021 gross monthly earned income, and \$881.00 gross monthly unearned income. The Appellant contested the Respondent's reduction of his SNAP benefit allotment amount.

Authority has not been granted to the Board of Review to change the income limits established in the policy. The Hearing Officer cannot judge the policy and can only determine if the Respondent followed the policy when deciding the Appellant's eligibility for Medicaid and the Appellant's monthly SNAP allotment.

The Respondent bears the burden of proof to demonstrate by a preponderance of evidence that the Appellant was correctly denied eligibility for Medicaid because his income exceeded the eligibility limit. Further, the Respondent had to prove that the amount of SNAP allotment was correctly calculated.

During the hearing, documentary and testimonial evidence was presented regarding adverse actions made by the Respondent after the decisions made on October 6 and October 15, 2025. As the hearing requests were based on the actions taken by the Respondent on October 6 and October 15, 2025, evidence related to actions after this period could not be considered.

MEDICAID

The Respondent had to prove by a preponderance of evidence that the Respondent correctly terminated the Appellant's Adult Medicaid eligibility after October 1, 2025, because his income exceeded the eligibility limit for a one-person Assistance Group (AG).

During the hearing, the Respondent's representative testified that the computer performed the calculations and was unable to explain the calculations used when determining the Appellant's eligibility on October 6, 2025. The Respondent's representative's testimony regarding the calculations did not match the amount shown on the notice of adverse action. According to the documentary and testimonial evidence, the Respondent's decision on October 6, 2025 was based on the statements provided on his review form and verified by SOLQ. Although the Respondent

was unable to explain the calculations, the Appellant was granted a *de novo* review, and the calculations are explained below.

According to the policy, determining the household's gross monthly income amount for Adult Medicaid is calculated as follows. For income that fluctuates in amount and is received more often than monthly, the Worker must convert the amount per pay period to a monthly amount by finding the average amount per period and converting it to a monthly amount. According to the submitted evidence, the Appellant reported he made \$605 bi-weekly in earned income:

\$605	reported weekly pay
<u>+605</u>	reported weekly pay
\$1,210 ÷ 2 =	\$605 average pay

Next, the policy instructs the Respondent to convert a biweekly amount by multiplying an averaged amount by 2.15. During the hearing, the Respondent's representative testified that the averaged amount must be multiplied by 4.15, which is incorrect.

\$605	average weekly pay
<u>X 2.15</u>	
\$1,300.75	average monthly earned income

This amount is consistent with the amount of earned income reflected on the Respondent's notice. The policy provides that all income in the previous 30 days must be considered. Pursuant to the policy, social security benefits are counted as income when determining Medicaid eligibility. As the evidence revealed that the Respondent's supervisor verified the Appellant's unearned income amount, this amount is added to the average monthly earned income:

\$1,300.75	
<u>+ 811</u>	unearned income
\$2,111.75	total countable income

Pursuant to the policy, the MAGI income eligibility limit was \$1,735 for a one-person assistance group. During the hearing, the potential income disregards were reviewed. The submitted information did not indicate the Appellant was eligible for any other income deductions or adjustments. The preponderance of evidence revealed that the Respondent correctly determined the Appellant's reported income exceeded the eligibility limit at the time of his review.

When a Medicaid AG is closed, the Respondent must mail advanced notice to the client at least 13 days before the first day of the month in which the benefits are affected. The 13-day advanced notice period begins with the date shown on the notification letter. It ends after the 13th calendar day has elapsed. Pursuant to the Respondent's adverse action notice, the Appellant's Medicaid benefits were retroactively terminated on October 1, 2025, which was incorrect. Because the Respondent did not provide the Appellant with sufficient notice before terminating his Adult Medicaid benefits, the Respondent incorrectly terminated his Adult Medicaid benefit eligibility effective on October 1, 2025. Therefore, his benefits must be retroactively reinstated until proper notice of adverse action is issued.

The Appellant retains the right to reapply for Medicaid eligibility based on a reduced income but would need to supply new income verification with his application.

SNAP Allotment

The Respondent reduced the amount of the Appellant's monthly SNAP allotment from \$174 to \$24, beginning on November 1, 2025. During the hearing, the Appellant argued that the approved amount was insufficient. The Respondent had to prove by a preponderance of evidence that the Appellant's \$24 SNAP allotment was correct.

Pursuant to the evidence, the Respondent considered a one-person AG when determining the Appellant's SNAP allotment amount. Income considered by the Respondent included \$2,021 gross earned income and \$881 gross unearned income. To determine the amount of monthly SNAP allotment, the Respondent must first determine the amount of income to be considered. According to the policy, wages must be considered when calculating the income amount.

During the hearing, the Appellant argued that his tips should not be considered as income because they are not guaranteed. The federal regulations stipulate that income that is received too infrequently or irregularly to be reasonably anticipated, may be excluded. The preponderance of evidence revealed that the pay submitted by the Appellant included tips. While the amounts of tips fluctuated, the evidence revealed that each paystub reflected tips, which constitutes regular receipt. Therefore, the Respondent correctly included the Appellant's tips when calculating his monthly income amount.

The Respondent testified that the child support deduction applied when determining the Appellant's SNAP allotment was incorrect. Pursuant to the evidence, the Appellant was legally obligated to pay \$193 in weekly child support. Payments were required to be made through [REDACTED] County Probation Department. According to the policy, only the amount of child support actually paid by the AG may be deducted and may not exceed the legally obligated amount. The policy prohibits alimony and spousal support payments from being deducted. According to the policy examples, when the child support amount paid each month varies, a minimum three-month total is averaged to project payments over the certification period.

During the hearing, the Appellant submitted a summary of payments made to his ex-spouse. The printout was compiled by the Appellant's friend who possessed accounting skills and was printed on November 17, 2025, after the Respondent's allotment decision on October 15, 2025. During the hearing, the Appellant testified that the payments were made through Cash App. However, the records submitted were not verified Cash App records and included payments for items including cigarettes, furniture rental, "eyebrows," Netflix, and Uber, which could not be verified as child support payments.

Because the Respondent determined the Appellant's SNAP allotment based on an incorrect amount of paid child support, the Respondent's allotment calculation on October 15, 2025, cannot be affirmed. Although the Respondent issued a verification checklist after the SNAP allotment decision, the records provided were not used to make the allotment decision on October 15, 2025. Further, the payment records submitted by the Appellant during the hearing do not constitute

reliable records of payment through the [REDACTED] County Probation Department or verified records from Cash App that demonstrate an amount of weekly child support paid by the Appellant.

As the Respondent failed to properly verify the amount of the Appellant's paid child support before making the SNAP allotment decision on October 15, 2025, the Respondent's SNAP reduction must be reversed, and the matter must be remanded for a new verification request and SNAP allotment decision. According to the policy, the Respondent must list all known verification needed on the request letter. If the Appellant fails to provide the verification requested on the DFA-6 within the specified time limit, the Respondent may deny the Appellant's eligibility. The Appellant retains the right to appeal anew any subsequent allotment or eligibility decision made by the Respondent.

CONCLUSIONS OF LAW

- 1) To be eligible for Adult Medicaid benefits, the Appellant's income could not exceed \$1,735 for a one-person Assistance Group (AG).
- 2) The preponderance of evidence revealed that the Appellant's reported \$2,111 gross countable income exceeded the Adult Medicaid eligibility limit.
- 3) When a Medicaid AG is closed, the Respondent must mail advanced notice to the client at least 13 days before the first day of the month that benefits are affected.
- 4) The preponderance of evidence revealed that the Respondent did not provide the Appellant with sufficient advanced notice before terminating his Adult Medicaid eligibility.
- 5) Because the Respondent did not provide the Appellant with sufficient notice before terminating his Adult Medicaid benefits, the Respondent incorrectly terminated his Adult Medicaid benefit eligibility after October 1, 2025. Therefore, his benefits must be retroactively reinstated until proper notice of adverse action is issued.
- 6) Because the Respondent determined the Appellant's SNAP allotment based on an incorrect amount of deducted child support payments, the Respondent's SNAP allotment calculation on October 15, 2025, cannot be affirmed.

As the Respondent failed to properly verify the amount of the Appellant's paid child support before making the SNAP allotment decision on October 15, 2025, the Respondent's SNAP reduction must be reversed, and the matter must be remanded for a new verification request and SNAP allotment decision.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to terminate the Appellant's Adult Medicaid eligibility after October 1, 2025. The matter is **REMANDED** for issuance of proper notice of adverse action before terminating the Appellant's Adult Medicaid eligibility due to income exceeding the eligibility limit. It is hereby **ORDERED** that any lost Adult Medicaid coverage be restored during the pendency of the notice issuance.

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's reduction of the Appellant's SNAP benefits. The matter is **REMANDED** for proper verification of the Appellant's paid child support and a new calculation of the Appellant's SNAP allotment. It is hereby **ORDERED** that the Appellant's SNAP allotment amount be reinstated, and any lost benefits be restored. The Appellant retains the right to appeal anew any subsequent allotment or eligibility decision made by the Respondent.

ENTERED this 3rd day of December 2025.

Tara B. Thompson, MLS
Certified State Hearing Officer