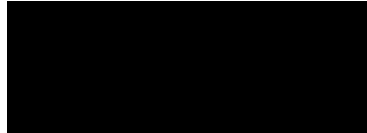




February 25, 2026



RE: [REDACTED] v. WV DoHS/BFA
ACTION NO.: 26-BOR-1101

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: Melissa Dobresk, DoHS

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

[REDACTED]

Appellant,

v.

Action Number: 26-BOR-1101

**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 fair hearing was convened on February 18, 2026.

The matter before the Hearing Officer arises from the Respondent's decision on January 14, 2026, to terminate the Appellant's WV WORKS/WV Employment Assistance Program (EAP) benefits.

At the hearing, the Respondent appeared by Dawn Forro, DoHS. Appearing as a witness on behalf of the Respondent was Melissa Dobresk. 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 West Virginia Income Maintenance Manual (WVIMM) excerpts: Chapter 18
[REDACTED] Delivery Earnings Screenshots: November 24, 2025 through January 4, 2026
Email Correspondence, dated December 23, 2025

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) WV WORKS is a Temporary Assistance for Needy Families (TANF) program which provides monthly cash assistance to eligible families.
- 2) WV EAP supplies WV WORKS cash assistance benefits for up to 6 months, in the same amount that was received before the client was employed.
- 3) In November 2025, the Appellant was a resident of [REDACTED] and employed in [REDACTED].
- 4) While in West Virginia during Thanksgiving 2025, the Appellant decided to move back to West Virginia, where she owns a residence.
- 5) On December 5, 2025, the Appellant attended WV WORKS orientation.
- 6) On December 8, 2025, the Appellant submitted an application and completed an interview for WV WORKS eligibility.
- 7) The Appellant resided in a household with her 10-year-old child [REDACTED].
- 8) At the time of application, the Appellant did not report receiving any income.
- 9) At the time of application, the Appellant was employed in [REDACTED]. After her application, the Appellant returned to [REDACTED] to work through her notice period.
- 10) The Appellant supplemented her income through self-employment doing [REDACTED] delivery (Exhibit D-1).
- 11) The Appellant earned \$84.17 from December 1 through December 7, 2025 (Exhibit D-1).
- 12) The Appellant earned \$170.49 from December 8 through December 14, 2025 (Exhibit D-1).
- 13) December 14, 2025 was the last day the Appellant worked in [REDACTED].
- 14) December 15, 2025 was the first day the Appellant worked in West Virginia.
- 15) The Appellant earned \$225 from December 15 through December 21, 2025 (Exhibit D-1).
- 16) The Appellant earned \$326.29 from December 22 through December 28, 2025 (Exhibit D-1).
- 17) On December 23, 2025, the Appellant informed the Respondent via email that her West Virginia employment was pending, and she would be participating in self-employment doing [REDACTED] delivery until her employment was established. The Appellant advised the Respondent if self-employment was not approved, she could participate in community service on that date (Exhibit D-1).

- 18) On December 23, 2025, the Respondent informed the Appellant via email that self-employment was approved if the Appellant provided an estimate of earnings and hours she would be delivering for [REDACTED] and informed the Appellant WV WORKS eligibility required 30 hours per week (Exhibit D-1).
- 19) On December 23, 2025, the Appellant informed the Respondent via email that she was paid by [REDACTED] per delivery and “should be able to make” \$500 per week (Exhibit D-1).
- 20) The Appellant earned \$221.26 from December 29, 2025, through January 4, 2026 (Exhibit D-1).
- 21) On January 14, 2026, the Respondent issued a notice advising the Appellant her WV WORKS/WVEAP benefits would end after January 31, 2026, because her earned income increased and her income exceeded the eligibility limit.
- 22) The Respondent’s termination was based on West Virginia Income Maintenance Manual Chapter 4, Appendix A, § 4.5.3, § 4.5, § 15.8.1, § 1.3.1, § 4.4.3, and § 7.2.3.
- 23) When determining the Appellant’s eligibility, the Respondent considered \$932.86 gross monthly earned income.
- 24) When determining the Appellant’s eligibility, the Respondent applied a \$373.14 earned income disregard.
- 25) When determining the Appellant’s eligibility, the Respondent considered a \$786 income limit.

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 3.4.1.A *Who Must Be Included* provides that parents who attend work or who are looking for work away from home, including those who work out of state, must be included in the Assistance Group (AG), unless there is a legal separation.

WVIMM § 3.4.2 *The Income Group* provides that the non-excluded income of all AG members is counted.

WVIMM Chapter 4, Appendix A *Income Limits* provides that for a two-person AG, 100% SON is \$786 and the standard WV Works Payment is \$480.

WVIMM § 4.3.1.30.j *Charts of Income Sources, Chart 1* provides that for determining WV WORKS eligibility, self-employment and wages are counted as earned income.

WVIMM § 4.5.1 *Budgeting Method* and § 4.5.1.A *Methods for Reasonably Anticipating Income* provides that eligibility is determined, and benefits are issued on a monthly basis; therefore, it is necessary to determine a monthly amount of income to count for the eligibility period. For all cases, the Worker must determine the amount of income that can be reasonably

anticipated for the Assistance Group (AG). 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 both of the following conditions exist for a source of income:

- 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 § 4.5.1.B *Consideration of Past Income* provides that the Worker must consider information about the client's income sources before deciding which income to use. The Worker must follow the steps below for each old income source.

STEP 1: Determine the amount of income received by all persons in the Income Group (IG) in the 30 calendar days before the application date, or interview date when the interview is completed on a different day than the application is received

WVIMM § 4.5.1.D *How to Use Past and Future Income* provides that After the Worker determines all of the income sources that are to be considered for use, the Worker determines the amount of monthly income, based on the frequency of receipt and whether the amount is stable or fluctuates. When the frequency of pay is more often than monthly, convert the amount per period to a monthly amount by finding the average amount per period and converting to a monthly amount.

To convert income to a monthly amount, multiply an actual or average amount by 4.3.

WVIMM § 4.5.3.4 *Determining Eligibility* provides that the AG is ineligible any month that the countable monthly gross income exceeds 100% of the Standard of Need (SON). The test is applied as follows:

STEP 1: Add together the total countable gross earned income, the gross profit from self-employment ...

STEP 2: Determine the 100% of the SON amount in Appendix A for the appropriate AG size.

STEP 3: If the amount in Step 1 is greater than the amount in Step 2, the AG is ineligible.

STEP 4: If the amount in Step 1 is equal to or less than the amount in Step 2, the AG is eligible for further determinations.

WVIMM § 4.5.3.B *Determining Countable Income and the Benefit Amount* provides that once the 100% of the SON test is met, the following steps are taken.

STEP 1: Add together the countable gross earned income of the AG.

STEP 2: Subtract 40% of STEP 1 (Earned Income Disregard)

STEP 3: Subtract the allowable Dependent Care Deduction. The resulting amount is the Total Countable Earned Income.

STEP 4: Total all child support received by the AG.

- STEP 5: Subtract the child support pass-through amount of up to \$100 or \$200 for children eligible for TANF. See below for determining the child support pass through amount.
- STEP 6: Add all other countable unearned income of the AG.
- STEP 7: Add together the total countable earned and unearned income.
- STEP 8: Determine the maximum WV WORKS benefit amount for the AG size, using Appendix A.
- STEP 9: If the total countable income exceeds the maximum WV WORKS benefit amount, the AG is ineligible.
If the total countable income is less than the maximum WV WORKS benefit amount, the AG is income eligible.
- STEP 10: Subtract the total countable income from the maximum WV WORKS benefit amount.
The resulting amount is the WV WORKS benefit amount.

WVIMM § 4.5.4.A *Special Situations, Income from Self-Employment through § 4.5.4.A.1 Determining Gross Income* provides that when an AG member receives income from self-employment, the instructions below must be used to arrive at the gross profit that is used to calculate countable income. This is determined by subtracting allowable business expenses from the gross income.

The method used to determine monthly gross income from self-employment varies with the nature of the enterprise. It is necessary to determine which of the following types of self-employment applies to the client's situation. Once the pattern of self-employment has been determined, the instructions below are used to determine how the income is counted.

- Persons receiving regular income are persons who receive income as profit on a more or less regular schedule (weekly, monthly, etc.) or receive a specific amount from the business each week or month and/or receive the balance of profit from the enterprise at the end of the business year. This income is converted to a monthly amount, according to Section 4.5.1. Business expenses may be computed on a monthly basis or prorate over a 12-month period, at the client's option

WVIMM § 4.5.2.A.2 *Determining Gross Profit* provides that gross profit from self-employment is the income remaining after deducting any identifiable costs of doing business from the gross income.

- Examples of allowable deductions include: repair and maintenance of machinery and/or property, insurance premiums and taxes paid on income-producing property, ...

WVIMM § 10.5.2.A *Client Reporting Requirements, What Must Be Reported* and § 10.5.2.B *Timely Reporting* provides that the client must report all changes in income, assets, household composition, and other circumstances. For WV WORKS cases, a client must report all changes in circumstances within 10 days. New earned income must be reported within 10 days of the date new employment begins to avoid certain penalties. The income earned is not applied to any month's income received during the time the employment is unreported and any month's income for which earnings were not reported.

WVIMM § 10.5.3 *Effective Date of the Change* provides that the agency must act on reported changes to ensure the changes are effective in the next month's benefit, when advance notice requirements permit.

DISCUSSION

The Respondent terminated the Appellant's WV WORKS benefits after January 31, 2026, because the Respondent determined the Appellant's income exceeded the eligibility limit. The Appellant requested a fair hearing to protest the Respondent's decision.

Pursuant to the termination notice, the Appellant's benefits were terminated because her income increased and exceeded the eligibility limit. The Board of Review cannot grant exceptions or pass judgement on the Respondent's policy and can only determine if the Respondent correctly followed the policy when terminating the Appellant's benefits. According to the policy, the Respondent must issue notices of adverse action that explain the reason for the action and supply the policy basis for the action. The notice stated that WVIMM § 15.8.1 was relied upon when making the Appellant's eligibility decision; however, this policy section is related to Refugee and Asylee Assistance Programs and was inapplicable to the Respondent's decision. According to the notice, WVIMM § 7.2.3 was relied upon when making the Appellant's eligibility decision; however, this policy section is related to client responsibilities during the verification process. No evidence was submitted to indicate that the Respondent's decision was based on the Appellant's failure to submit requested verifications. Therefore, this section was inapplicable to the Respondent's decision.

During the hearing, the Appellant testified that after discussions with the Respondent's worker, she did not include income from her [REDACTED] employer on her application because she was leaving employment. According to the policy, past income is only used when income from the source is expected to continue into the certification period. Because the Appellant was moving to West Virginia from [REDACTED] and she had submitted her notice to her employer, the Appellant could not reasonably anticipate income from the same source to continue through her certification period. While WVIMM § 4.5.1.E.1 requires use of actual income received in the month of application when an income source is terminated within the month, income from the Appellant's [REDACTED] employment was not provided on the notice as a basis of termination and verification of [REDACTED] employment income was not provided for evidentiary review.

Pursuant to the email correspondence and the Appellant's testimony, the Appellant engaged in self-employment doing Walmart delivery during the period she was working out her notice in [REDACTED] and during the period following her end of employment, when she moved to West Virginia. Although the amount of anticipated income could not reasonably be considered to stay the same due to a change of location of the Appellant's self-employment, the Appellant could reasonably anticipate income from [REDACTED] delivery to continue through her certification period and the amount of [REDACTED] delivery income she received in the 30 days before her application date should have been considered when determining her initial eligibility. However, no evidence was submitted to determine what amount of income the Appellant received in the 30 days preceding her date of application. Only income for December 2025 through January 4, 2026, was submitted.

To be eligible for WV WORKS, the AG's income could not exceed the maximum WV WORKS benefit amount for the AG size. According to the policy, for a two-person AG, the maximum WV WORKS benefit amount was \$480.

Pursuant to the evidence, the Respondent considered \$932.86 in gross earned income for the AG and subtracted a \$373.14 earned income disregard to determine a total countable net earned income amount of \$559. Then, the Respondent compared the \$559 countable net income to the \$480 maximum benefit amount. According to the policy, if the total countable income exceeds the maximum WV WORKS benefit amount, the AG is ineligible. Because the AG's \$559 calculated countable net income exceeded the \$480 maximum benefit amount, the Respondent determined the Appellant was ineligible for WV WORKS benefits.

According to the policy, when the frequency of receipt is more often than monthly, the Respondent must convert the amount per period to a monthly amount by finding the average amount per period and converting to a monthly amount:

\$ 84.17	December 1-December 7
\$ 170.49	December 8-December 14
\$ 225.20	December 15-December 21
\$ 326.29	December 22-December 28
\$ 221.26	December 29-January 4
+ 57.44	January 5-January 11
<u>\$1,084.85</u>	

$\$1,084.85 \div 6 \text{ pay periods} = 180.80833333333333 \text{ average amount per period}$

To convert income to a monthly amount, multiply an actual or average amount by 4.3:

$\$180.80833333333333 \times 4.3 = \777.4758333333333

Using the pay verification provided and following the steps in policy, the Hearing Officer could not recreate the \$932.86 gross earned income amount used by the Respondent when determining the Appellant's eligibility.

When a client reports a change of income, the Respondent is required to act on the reported change. The evidence revealed that the Appellant reported self-employment from [REDACTED] delivery on December 23, 2025. To determine eligibility, WVIMM § 4.5.3 requires the Respondent to consider the gross profit from self-employment. No evidence was submitted to establish that the Respondent sought to verify the Appellant's self-employment expenses or that the Respondent had calculated the Appellant's gross profit from self-employment when deciding her WV WORKS eligibility after January 31, 2026. The evidence did not demonstrate that the Respondent considered or applied any potential self-employment deductions such as payments for the operation, maintenance, insurance premiums, or taxes paid on income-producing property as discussed in WVIMM § 4.5.2.A.2. Because the Respondent's calculations could not be affirmed and the

evidence failed to establish that the Appellant's self-employment income was correctly considered, the Respondent's decision cannot be affirmed and the matter must be remanded.

CONCLUSIONS OF LAW

- 1) To be eligible for WV WORKS, the AG's total countable net income could not exceed the \$480 maximum WV WORKS benefit amount.
- 2) The preponderance of evidence failed to verify that the amount of income reflected on the termination notice was correct.
- 3) The preponderance of evidence failed to verify that the Respondent correctly considered the Appellant's self-employment gross profit and expenses.
- 4) Because the preponderance of evidence failed to verify the Appellant's income exceeded the eligibility limit, the Respondent incorrectly terminated the Appellant's WV WORKS benefits after January 31, 2026.
- 5) To determine the Appellant's ongoing eligibility, the matter must be remanded for recalculation of the Appellant's income with consideration of her self-employment gross profit and expenses.

DECISION

It is the Hearing Officer's decision to **REVERSE** the Respondent's decision to terminate the Appellant's WV WORKS eligibility after January 31, 2026. The matter is **REMANDED** for recalculation of the Appellant's income with consideration of her self-employment gross profit and expenses.

ENTERED this 25th day of February 2026.

Tara B. Thompson, MLS
Certified State Hearing Officer