



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH
Office of the Inspector General
Board of Review**

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

**Ann Vincent-Urling
Interim Inspector General**

March 13, 2024



RE: [REDACTED] v. WVDOHS
ACTION NO.: 24-BOR-1446

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 Health and Human Resources. 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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Melissa Skidmore, DoHS

**BEFORE THE WEST VIRGINIA DEPARTMENT OF HEALTH
BOARD OF REVIEW**

████████████████████,

Appellant,

v.

Action Number: 24-BOR-1446

**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 West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on March 6, 2024.

The matter before the Hearing Officer arises from the Respondent's calculation of Supplemental Nutrition Assistance Program (SNAP) benefits as outlined in a notice dated February 9, 2024.

At the hearing, the Respondent appeared by Melissa Skidmore, Economic Services Supervisor, WVDoHS. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision dated February 9, 2024
- D-2 Documentation from ██████████
- D-3 Case Comments from Respondent's computer system
- D-4 West Virginia Income Maintenance Manual Chapters 4.4.2.B.7 and 4.4.2.C

Appellant's Exhibits:

- A-1 Appellant's written statement
- A-2 Notice of Decision dated February 9, 2024
- A-3 West Virginia Income Maintenance Manual Chapters 4.4.2.B.7 and 4.4.2.C
- A-4 West Virginia Income Maintenance Manual Chapter 4.3.1.53
- A-5 Case Comments from Respondent's computer system

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 Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) The Appellant completed a case redetermination in February 2024 (Exhibit D-3).
- 3) The Respondent sent the Appellant a Notice of Decision on February 9, 2024, indicating that his SNAP benefits would remain unchanged at \$23 per month (Exhibits D-1 and A-2).
- 4) The Appellant has a Federal Housing Administration (FHA)-insured reverse mortgage loan on his residence and is obligated to pay monthly interest and a Mortgage Insurance Premium (MIP). The amount varies monthly based on the current interest rate (Exhibits D-2 and A-6).
- 5) The Appellant's financial situation does not currently allow him to make direct monthly interest and MIP payments; however, the monthly payments are deducted from his mortgage escrow account (Exhibits D-2 and A-6).
- 6) The principal plus interest on the Appellant's reverse mortgage loan will be due at the time of the Appellant's death or if he should move from his residence.
- 7) Outstanding debt on the Appellant's reverse mortgage was \$115,977.41 as of February 2024 (Exhibits D-2 and A-6).

APPLICABLE POLICY

Code of Federal Regulations Section 7 CFR 273.9(d)(6)(ii) addresses shelter deductions for SNAP benefits and states:

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:

(A) Continuing charges for the shelter occupied by the household, including rent, mortgage, condo and association fees, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.

(B) Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

(C) The cost of fuel for heating; cooling (i.e., the operation of air conditioning systems or room air conditioners); electricity or fuel used for purposes other than heating or cooling; water; sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; all service fees required to provide service for one telephone, including, but not limited to, basic service fees, wire maintenance fees, subscriber line charges, relay center surcharges, 911 fees, and taxes; and fees charged by the utility provider for initial installation of the utility. One-time deposits cannot be included.

(D) The shelter costs for the home if temporarily not occupied by the household because of employment or training away from home, illness, or abandonment caused by a natural disaster or casualty loss. For costs of a home vacated by the household to be included in the household's shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs for SNAP purposes; and the home must not be leased or rented during the absence of the household.

(E) Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood. Shelter costs shall not include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source.

West Virginia Income Maintenance Manual Chapter 4.4.2.B) lists allowable deductions for SNAP benefits. These deductions include the earned income disregard of 20 percent, the standard deduction, the dependent care deduction, the child support deduction, the Homeless Shelter Standard Deduction, medical expenses for the elderly and/or disabled, shelter expenses, and the Standard Utility Allowance (SUA).

West Virginia Income Maintenance Manual Chapter 4.4.2.B.7 (Exhibits D-4 and A-3) addresses shelter/utility deductions for SNAP and states:

The Worker must allow the expense only if the AG is obligated to pay with the AG's excluded or non-excluded resources. There is no time limit during the certification period for deciding when an AG is no longer allowed a deduction for the bill. The AG is no longer allowed the deduction when the expense is no longer billed or is no longer due. An expense does not have to be paid to be a deduction. In order to receive a shelter deduction, the expense/obligation must be verified at a minimum of application and redetermination, or when the AG reports a change in shelter expense.

West Virginia Income Maintenance Manual Chapter 4.4.2.C (Exhibits D-4 and A-3) states that the following expenses can be considered for a SNAP shelter deduction:

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

- Rent. Security or damage deposits are not shelter expenses.
- 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. This does not include insurance on furniture or personal belongings. If the insurance cost on the structure and the cost on the personal belongings/furniture cannot be identified separately, the entire insurance payment is allowed.
- 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. This does not include charges that will be or have been reimbursed from any source such as insurance, private agency, etc.
- A car payment when a homeless AG lives in their vehicle.
- Insurance on the vehicle itself when a homeless AG lives in their vehicle.

DISCUSSION

Federal regulations list permissible shelter deductions for SNAP benefits. Among the permissible deductions are continuing charges for the shelter occupied by the household, including rent, mortgage, condo and association fees, or other continuing charges leading to the ownership of the shelter such as loan repayments, including interest on such payments. State regulations state that an Assistance Group is no longer allowed a shelter deduction when the expense is no longer billed or is no longer due. An expense does not have to be paid to be a deduction.

The Respondent's representative contends that the Appellant is ineligible to receive a shelter deduction for the interest/MIP on his reverse mortgage because he is not obligated to pay the monthly expense.

The Appellant testified that he previously wrote monthly checks for the interest/MIP payments; however, the interest rate increased, and he does not have sufficient income to make the payments and keep up with other household expenses. As a result, the payments are being made through deductions in his mortgage escrow account. The Appellant contended that he is still billed monthly for the expenses and that policy does not require an expense to be paid to be considered an allowable shelter deduction.

The Appellant has a contractual obligation to pay monthly interest and MIP on his reverse mortgage loan. While he has not been sending money directly to the lender, the expenses are paid through his mortgage escrow account. As continuing charges leading to the ownership of a shelter, including loan repayments and interest, are considered allowable shelter deductions under federal and state policy, the Appellant's interest and MIP payments are allowable SNAP deductions.

The Respondent's decision to disallow a shelter deduction for monthly mortgage interest and MIP payments cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Policy states that loan repayments and interest are allowable shelter deductions for SNAP benefits.
- 2) The Appellant is contractually responsible for monthly interest and MIP payments on his reverse mortgage loan.
- 3) While the Appellant does not directly make interest and MIP payments to the lender, the payments are made through the Appellant's mortgage escrow account.
- 4) The Respondent's decision to disallow a shelter deduction for interest and MIP payments cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's action to disallow a shelter deduction for mortgage loan interest and MIP payments. As the Appellant requested the shelter deduction during his SNAP review in February 2024, his SNAP allotment should be recalculated for March 2024 and supplemental benefits should be issued as applicable.

ENTERED this 13th day of March 2024.

**Pamela L. Hinzman
State Hearing Officer**