



March 21, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 24-BOR-1546

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. 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: Sarah Kennedy, BFA

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

██████████,

Appellant,

v.

Action Number: 24-BOR-1546

**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’s Common Chapters Manual. This fair hearing was convened on March 14, 2024, on an appeal filed February 26, 2024.

The matter before the Hearing Officer arises from the February 20, 2024 decision by the Respondent to reduce the Appellant’s Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Sarah Kennedy, Economic Service Worker . The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department’s Exhibits:

- D-1 Case Comments dated November 16, 2023
- D-2 PRC2 dated November 7, 2023
- D-3 Computer printout of Earned Income
- D-4 Case Comments dated February 16, 2024
- D-5 WV PATH application Change Report Form
- D-6 Computer printout of Unearned Income
- D-7 West Virginia Income Maintenance Manual 4.4.3
- D-8 Notice of Decision dated February 20, 2024

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 was a recipient of SNAP benefits.
- 2) The Appellant’s assistance group consisted of herself and her son.
- 3) The Appellant was employed with [REDACTED]
- 4) On November 7, 2023, the Appellant reported a monthly earned income of \$1715.70. (Exhibit D-2)
- 5) The Appellant received a monthly SNAP benefit amount of \$305.00.
- 6) On December 20, 2023, the Appellant submitted a WVPATH change form (Exhibit D-5) reporting the onset of monthly child support income of \$208.50.
- 7) The Respondent processed the reported child support income change on February 16, 2024. (Exhibit D-1)
- 8) On February 20, 2024, the Respondent issued a Notice of Decision (Exhibit D-8) informing the Appellant of the reduction of her monthly SNAP benefits from \$305.00 to \$211.00 effective April 1, 2024.

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 4.4.3 documents in part:

SNAP certification for residents of shelters for battered persons and their children are based on the income, assets, and expenses of the client and their children. See Sections 5.6 and 16.2.

The following steps are used to determine countable income for cases meeting the eligibility tests above.

- Step 1: Combine monthly gross countable earnings and monthly gross profit from self-employment.
- Step 2: Deduct 20% of Step 1.
- Step 3: Add the gross countable unearned income, including the WV WORKS benefit and any amount reduced or being repaid to WV WORKS due to failure to comply with a program requirement. See Section 4.4.4.
- Step 4: Subtract the Standard Deduction found in Appendix B.
- Step 5: Subtract allowable Dependent Care Expenses.
- Step 6: Subtract the amount of legally obligated child support actually paid.
- Step 7: Subtract the Homeless Shelter Standard Deduction found in Appendix B.
- Step 8: Subtract allowable medical expenses in excess of \$35.
- Step 9: Calculate 50% of the remaining income and compare it to the actual monthly shelter/SUA amount.

Step 10:

	No One Elderly or Disabled	At Least One Person Elderly or Disabled
Shelter/SUA Equal to Or Less Than Step 9	No further computation is needed. The amount from Step 8 is the countable income.	No further computation is needed. The amount from Step 8 is the countable income.
Shelter/SUA Greater Than Step 9	The amount in excess of 50%, not to exceed the shelter/utility cap, in Appendix B is deducted to arrive at countable income.	The amount in excess of 50% is deducted, without regard to the shelter/utility cap, in Appendix B to arrive at countable income.

Step 11: Compare the countable income to the maximum net income in Appendix A for the AG size. This net income test does not apply to Categorically Eligible AGs. See Chapter 1.

West Virginia Income Maintenance Manual § 4.4.3

To determine the SNAP allotment, find the countable income and the maximum benefit allotment for the AG in Appendix A. One- and two-person AGs who meet the gross and net income test or who are categorically eligible, as defined in Section 1.4.17.C automatically receive the minimum SNAP benefit, unless it is a prorated benefit. See Appendix D, SNAP and WV WORKS Proration Table. No benefits are issued to any AG eligible for an initial, prorated amount less than \$10. See Chapter 1 for proration requirements. The Worker will determine the benefit amount by using the following method. The eligibility system also uses this method.

Computation of Benefit Amount	Example
Multiply net income by 30% (Round up)	$ \begin{array}{r} \$ 554 \text{ Net monthly income} \\ \times .30 \\ \hline \$166.20 = \$167 \end{array} $
Subtract 30% of net income as calculated above from the maximum monthly benefit for the AG size	$ \begin{array}{r} \$973 \text{ Maximum allotment for four} \\ - 167 \text{ 30\% of net income} \\ \hline \$806 \text{ SNAP benefit for a full month} \end{array} $

West Virginia Income Maintenance Manual 4.4.1.B documents in part:

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 prior to the application/redetermination date, or interview date when the interview is completed on a different day than when the application is received. The appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of application/redetermination. However, if the interview is completed on a different day than when the date the application/redetermination is received, the 30-day look-back period could begin the day before the interview date. The income from this 30-day period is the minimum amount of income that must be considered. When, in the Worker’s judgment, future income may be more reasonably anticipated by considering the income from a longer period of time, the Worker considers income for the time period he determines to be reasonable. Whether the Worker considers income from the prior 30 days, or from a longer period of time, all of the income received from that source during that time period must be considered. All pay periods during the appropriate time period must be considered and must be consecutive. If the client provided sufficient income verification on the date the application/redetermination is received, then additional verification is not required at interview. The year-to-date amounts on check stubs may only be used when the client has verification of all payment amounts whether used or not but is missing one.

Step 2: Determine if the income from the previous 30 days is reasonably expected to continue into the new certification period. If it is not expected to continue, the income from this source is no longer considered for use in the new certification period. If it is expected to continue, determine if the amount is reasonably expected to be more or less the same. If so, the income source is used for the new certification period and treated according to Section 4.4.1.D below. If it is not expected to continue at more or less the same amount, the income source is used for the new certification period and treated according to Section 4.4.1.C below.

Step 3: Record the results of Step 2, including the amount of income, why the source is or is not being considered for the new certification period, the client's statement about continuation of the income from this source, the time period used, and, if more than the previous 30 days, the reason additional income was considered. Once the Worker has determined all of the old sources of income to consider and the time period for which they are considered, he must then determine if any source should be considered for future income.

Code of Federal Regulations 273.10 documents:

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 income earned by all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income. Net losses from the self-employment income of a farmer shall be offset in accordance with [§ 273.11\(a\)\(2\)\(iii\)](#).

(B) Multiply the total gross monthly earned income by 20 percent and subtract that amount from the total gross income; or multiply the total gross monthly earned income by 80 percent and add that to the total monthly unearned income, minus income exclusions. If the State agency has chosen to treat legally obligated child support payments as an income exclusion in accordance with [§ 273.9\(c\)\(17\)](#), multiply the excluded earnings used to pay child support by 20 percent and subtract that amount from the total gross monthly income.

(C) Subtract the standard deduction.

(D) If the household is entitled to an excess medical deduction as provided in [§ 273.9\(d\)\(3\)](#), determine if total medical expenses exceed \$35. If so, subtract that portion which exceeds \$35.

(E) Subtract allowable monthly dependent care expenses, if any, as specified under [§ 273.9\(d\)\(4\)](#) for each dependent.

(F) If the State agency has chosen to treat legally obligated child support payments as a deduction rather than an exclusion in accordance with [§ 273.9\(d\)\(5\)](#), subtract allowable monthly child support payments in accordance with [§ 273.9\(d\)\(5\)](#).

(G) Subtract the homeless shelter deduction, if any, up to the maximum of \$143.

(H) 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 percent 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 [paragraph \(e\)\(1\)\(i\)\(I\)](#) of this section.

(I) 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 applicable 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 two 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. If the State TANF program includes the cents in income calculations, the State agency may use the same procedures for SNAP income calculations. Whichever procedure is used, the State agency may elect to include the cents associated with each individual shelter cost in the computation of the shelter deduction and round the final shelter deduction amount. Likewise, the State agency may elect to include the cents associated with each individual medical cost in the computation of the medical deduction and round the final medical deduction amount.

(2) *Eligibility and benefits.*

(A) Households which contain an elderly or disabled member as defined in [§ 271.2](#), shall have their net income, as calculated in [paragraph \(e\)\(1\)](#) of this section (except for households considered destitute in accordance with [paragraph \(e\)\(3\)](#) 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.

(B) In addition to meeting the net income eligibility standards, households which do not contain an elderly or disabled member shall have their gross income, as calculated in accordance with [paragraph \(e\)\(1\)\(i\)\(A\)](#) of this section, compared to the gross monthly income standards defined in [§ 273.9\(a\)\(1\)](#) for the appropriate household size to determine eligibility for the month.

(C) For households considered destitute in accordance with [paragraph \(e\)\(3\)](#) of this section, the State agency shall determine a household's eligibility by computing its gross and net income according to [paragraph \(e\)\(3\)](#) of this section, and comparing, as appropriate, the gross and/or net income to the corresponding income eligibility standard in accordance with [§ 273.9\(a\)\(1\)](#) or [\(2\)](#).

(D) If a household contains a member who is fifty-nine years old on the date of application, but who will become sixty before the end of the month of application, the State agency shall determine the household's eligibility in accordance with [paragraph \(e\)\(2\)\(i\)\(A\)](#) of this section.

(E) If a household contains a student whose income is excluded in accordance with [§ 273.9\(c\)\(7\)](#) and the student becomes 18 during the month of application, the State agency shall exclude the student's earnings in the month of application and count the student's earnings in the following month. If the student becomes 18 during the certification period, the student's income shall be excluded until the month following the month in which the student turns 18.

(A) Except as provided in [paragraphs \(a\)\(1\)](#), [\(e\)\(2\)\(iii\)](#) and [\(e\)\(2\)\(vi\)](#) of this section, the household's monthly allotment shall be equal to the maximum SNAP allotment for the household's size reduced by 30 percent of the household's net monthly income as calculated in [paragraph \(e\)\(1\)](#) of this section. If 30 percent of the household's net income ends in cents, the State agency shall round in one of 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 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.

(B) If the calculation of benefits in accordance with [paragraph \(e\)\(2\)\(ii\)\(A\)](#) of this section for an initial month would yield an allotment of less than \$10 for the household, no benefits shall be issued to the household for the initial month.

(C) Except during an initial month, all eligible one-person and two-person households shall receive minimum monthly allotments equal to the minimum benefit. The minimum benefit is 8 percent of the maximum allotment for a household of one, rounded to the nearest whole dollar.

(iii) For an eligible household with three or more members which is entitled to no benefits (except because of the proration requirements of [paragraph \(a\)\(1\)](#) and the provision precluding issuances of less than \$10 in an initial month of [paragraph \(e\)\(2\)\(ii\)\(B\)](#)) of this section:

(A) The State agency shall deny the household's application on the grounds that its net income exceeds the level at which benefits are issued; or

(B) The State agency shall certify the household but suspend its participation, subject to the following conditions:

(1) The State agency shall inform the suspended household, in writing, of its suspended status, and of its rights and responsibilities while it is in that status.

(2) The State agency shall set the household's change reporting requirements and the manner in which those changes will be reported and processed.

(3) The State agency shall specify which changes shall entitle the household to have its status converted from suspension to issuance, and which changes shall require the household to reapply for participation.

(4) The household shall retain the right to submit a new application while it is suspended.

(5) The State agency shall convert a household from suspension to issuance status, without requiring an additional certification interview, and issue its initial allotment, within ten days of the date the household reports the change.

(6) The State agency shall prorate the household's benefits, in the first month after the suspension period, from the date the household reports a change, in accordance with [paragraph \(a\)\(1\)](#) of this section.

(7) The State agency may delay the work registration of the household's members until the household is determined to be entitled to benefits.

(iv) For those eligible households which are entitled to no benefits in their initial month of application, in accordance with [paragraph \(a\)\(1\)](#) or [\(e\)\(2\)\(ii\)\(B\)](#) of this section, but are entitled to benefits in subsequent months, the State agency shall certify the households beginning with the month of application.

(v) When a household's circumstances change and it becomes entitled to a different income eligibility standard, the State agency shall apply the different standard at the next recertification or whenever the State agency changes the household's eligibility, benefit level or certification period, whichever occurs first.

(vi) During a month when a reduction, suspension or cancellation of allotments has been ordered pursuant to the provisions of [§ 271.7](#), eligible households shall have their benefits calculated as follows:

(A) If a benefit reduction is ordered, State agencies shall reduce the maximum SNAP allotment amounts for each household size by the percentage ordered in the

Department's notice on benefit reductions. State agencies shall multiply the maximum SNAP allotment amounts by the percentage specified in the FNS notice; if the result ends in 1 through 99 cents, round the result up to the nearest higher dollar; and subtract the result from the normal maximum SNAP allotment amount. In calculating benefit levels for eligible households, State agencies would follow the procedures detailed in [paragraph \(e\)\(2\)\(ii\)](#) of this section and substitute the reduced maximum SNAP allotment amounts for the normal maximum SNAP allotment amounts.

(B) Except as provided in [paragraphs \(a\)\(1\)](#), [\(e\)\(2\)\(ii\)\(B\)](#), and [\(e\)\(2\)\(vi\)\(C\)](#) of this section, one- and two-person households shall be provided with at least the minimum benefit.

(C) In the event that the national reduction in benefits is 90 percent or more of the benefits projected to be issued for the affected month, the provision for a minimum benefit for households with one or two members only may be disregarded and all households may have their benefits lowered by reducing maximum SNAP allotment amounts by the percentage specified by the Department. The benefit reduction notice issued by the Department to effectuate a benefit reduction will specify whether minimum benefits for households with one or two members only are to be provided to households.

(D) If the action in effect is a suspension or cancellation, eligible households shall have their allotment levels calculated according to the procedures in [paragraph \(e\)\(2\)\(ii\)](#) of this section. However, the allotments shall not be issued for the month the suspension or cancellation is in effect. The provision for the minimum benefit for households with one or two members only shall be disregarded and all households shall have their benefits suspended or cancelled for the designated month.

(E) In the event of a suspension or cancellation, or a reduction exceeding 90 percent of the affected month's projected issuance, all households, including one and two-person households, shall have their benefits suspended, cancelled or reduced by the percentage specified by FNS.

DISCUSSION

On February 20, 2024, the Respondent, acting on a reported change of income, reduced the Appellant's monthly SNAP benefit allotment from \$305.00 to \$211.00. (Exhibit D-8) The Appellant requested this fair hearing as an appeal to the Respondent's decision to reduce her household's monthly SNAP benefit allotment. The Respondent must prove by a preponderance of the evidence that it correctly determined the Appellant's monthly SNAP allotment.

On November 7, 2023, the Appellant completed a PRC-2 (Exhibit D-2) as a periodic report of her SNAP eligibility. On the submitted documentation, the Appellant reported that the household's

monthly earned income remained \$1715.70. Based on the reported information, the Respondent approved monthly SNAP benefits in the amount of \$305.00. On December 20, 2023, the Appellant reported the onset of monthly child support income in the amount of \$208.50 (Exhibit D-5). Due to the Respondent's delay, the reported addition of child support was not processed until February 16, 2024. The addition of the child support income reduced the Appellant's monthly SNAP benefit allotment from \$305.00 to \$211.00.

The Appellant contends that she has not been employed since November 2023 and she had reported the change in income via WVPATH in December 2023.

Based on an evidentiary review, there was no evidence to support the Appellant's claim that she previously reported the loss of her earned income through her employment. According to the Appellant's assistance group of two, the maximum monthly SNAP allotment is \$535.00. The Appellant's net adjusted income is \$1078.50. After the reduction of 30% of adjusted income of \$323.40, the Appellant's monthly SNAP allotment is determined to be \$211.00. The Respondent's decision to reduce the Appellant's SNAP benefits is affirmed.

CONCLUSIONS OF LAW

- 1) Monthly SNAP allotments are determined by subtracting 30% of the net income from the maximum monthly benefits for the assistance group size.
- 2) The maximum monthly SNAP benefit for an assistance group of two is \$535.00.
- 3) The Appellant's net adjusted household income is \$1078.50. Thirty percent of the Appellant's net income is \$323.40.
- 4) A thirty percent reduction of the Appellant's net income of \$323.40 from the maximum monthly SNAP benefit allotment of \$535.00 is \$211.00.

DECISION

It is the decision of the State Hearing Officer to uphold the decision of the Respondent to reduce the Appellant's monthly SNAP benefits.

ENTERED this _____ day of March 2024.

Eric L. Phillips
State Hearing Officer