



March 21, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS  
ACTION NO.: 24-BOR-1593

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 assure 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: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Jamie Maynard, BFA

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

██████████,

**Appellant,**

v.

**Action Number: 24-BOR-1593**

**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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on March 20, 2024.

The matter before the Hearing Officer arises from the January 29, 2024 decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Jamie Maynard, Economic Service Supervisor. The Appellant appeared pro se. Appearing as a witness was ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Notice of Decision dated January 29, 2024
- D-3 West Virginia Income Maintenance Manual Chapter 4 Appendix A
- D-4 Computer printout of March 2024 Income Summary
- D-5 Computer printout of March 2023 Income Summary
- D-6 SNAP allotment determination

**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 household consists of herself. (Exhibit D-6)
- 3) The Appellant received monthly SNAP benefits in the amount of \$108.00.
- 4) In March 2023, the Appellant received monthly Social Security Disability Window (SSDW) Income benefits in the amount of \$918.00. (Exhibit D-5)
- 5) In March 2023, the Appellant received monthly Supplemental Security Income (SSI) in the amount of \$16.00.
- 6) In March 2024, the Appellant received a cost-of-living adjustment (COLA) increase which increased her monthly SSDW benefits to \$947.00. (Exhibit D-4)
- 7) In January 2024, the Respondent initiated a mass change to SNAP benefits as a result of the Social Security Administration COLA increases.
- 8) On January 29, 2024, the Respondent issued a Notice of Decision (Exhibit D-2) which reduced her SNAP benefits, effective March 1, 2024, from \$108.00 to \$95.00.

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual § 10.4.2 documents:

All SNAP assistance groups (AGs) must report changes related to eligibility and benefit amount at application and redetermination. SNAP AGs are subject to limited reporting requirements, and the reporting requirements in this section apply to recipient AGs only. The reporting requirements for SNAP clients are only for SNAP benefits and do not affect the reporting requirements of any other program of assistance that the AG also receives.

Regardless of the SNAP reporting requirement, all changes reported directly by an AG member, the AG's authorized representative and/or authorized Electronic Benefits Transfer (EBT) cardholder, or from a source that is listed as verified upon

receipt below must be acted on, even if the AG is not required to report the information. The AG is not required to report any periodic cost-of-living increases in federal benefits, such as the yearly increase in Retirement, Survivors, and Disability Insurance (RSDI), Supplemental Security Income (SSI), Black Lung, or Veterans Affairs (VA) benefits. This exception only applies to mass changes, not to an individual change affecting the level of a client's benefits. See "Other Types of Changes" below. When reported information results in a change in benefits and additional or clarifying information is needed, the Worker must first request the information by using the DFA-6 or verification checklist. If the client does not provide the information within the time frame specified by the Worker, the appropriate action is taken after advance notice. Each reported change is evaluated independently for the appropriate action to be taken. When a reported change results in the change of the certification period, the client must receive advance notice of the change.

#### West Virginia Income Maintenance Manual § 10 Appendix B

Recipients of federal benefits, such as Retirement, Survivors, and Disability Insurance (RSDI), Supplemental Security Income (SSI), Black Lung, or Veterans Affairs Benefits, may receive periodic cost-of-living (COLA) increases. RSDI and SSI increases are handled in accordance with instructions in Appendix A of this chapter. All other federal benefit cost-of-living increases are treated as any other change, except that the client is not required to report the change nor is repayment required when the client fails to do so.

#### West Virginia Income Maintenance Manual § 10.B.2

The Worker must not act on reported income changes due solely to an SSI and/or RSDI COLA. These changes are made during the eligibility system Mass Change or shown on one of the COLA Exception Reports.

...

For redeterminations completed prior to the eligibility system Mass Change, the Worker must use the previous amount, even if the redetermination is completed in January. For redeterminations completed in the month before the eligibility system COLA Mass Change, use the new amount.

#### West Virginia Income Maintenance Manual § 10.4.2.B.1

Action must be taken for all AGs when information is received from a source that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the primary source of the information. The only sources considered verified upon receipt are:

- Beneficiary Earnings and Data Exchange (BENDEX) and State Data Exchange (SDX) from the Social Security Administration (SSA)
- Cost-of-living adjustment (COLA) Mass Change and reports in Appendix B
- Systematic Alien Verification for Entitlement (SAVE) from United State Citizenship and Immigration Services (USCIS) and 40 Qualifying Quarters information from SSA
- Unemployment Compensation (UC) and work registration data from WorkForce West Virginia
- Investigations and Fraud Management (IFM) findings of an investigation
- VA match with OIG findings • Notification of application for benefits in another state
- Report from Social Service Worker • Child Welfare Information System Provider and Client Detail Data Exchanges
- Housing and Urban Development (HUD)
- State On-Line Query (SOLQ)
- Notification of ABAWD cooperation/non-cooperation from a SNAP Employment and Training (E&T) Worker
- Information received from the WV Lottery Commission for SNAP Substantial Lottery and Gaming policy

Code of Federal Regulations § 273.12.e.3 documents:

Certain changes are initiated by the State or Federal government which may affect the entire caseload or significant portions of the caseload. These changes include, but are not limited to, adjustments to the income eligibility standards, the shelter and dependent care deductions, the maximum SNAP allotment and the standard deduction; annual and seasonal adjustments to State utility standards; periodic cost-of-living adjustments to Retirement, Survivors, and Disability Insurance (RSDI), Supplemental Security Income (SSI) and other Federal benefits; periodic adjustments to Temporary Assistance for Needy Families (TANF) or General Assistance (GA) payments; and other changes in the eligibility and benefit criteria based on legislative or regulatory changes.

***(1) Federal adjustments to eligibility standards, allotments, and deductions, and State adjustments to utility standards.***

(i) State agencies shall implement these changes for all households at a specific point in time. Adjustments to Federal standards shall be implemented prospectively regardless of the household's budgeting system. Annual and seasonal adjustments in State utility standards shall also be implemented prospectively for all households.

(A) Adjustments in the maximum SNAP allotment shall be effective in accordance with [§ 273.10\(e\)\(4\)\(ii\)](#).

(B) Adjustments in the standard deduction shall be effective in accordance with [§ 273.9\(d\)\(1\)](#).

(C) Adjustments in the shelter deduction shall be effective in accordance with [§ 273.9\(d\)\(6\)](#).

(D) Adjustments in the income eligibility standards shall be effective in accordance with [§ 273.9\(a\)\(3\)](#).

(ii) A notice of adverse action shall not be used for these changes. At a minimum, the State agencies shall publicize these mass changes through the news media; posters in certification offices, issuance locations, or other sites frequented by certified households; or general notices mailed to households. At its option, the State agency may send the notice described in [paragraph \(e\)\(4\)](#) of this section or some other type of written explanation of the change. A household whose certification period overlaps a seasonal variation in the State utility standard shall be advised at the time of initial certification of when the adjustment will occur and what the variation in the benefit level will be, if known.

**(2) *Mass changes in public assistance and general assistance.***

(i) When the State agency makes an overall adjustment to public assistance (PA) payments, corresponding adjustments in households' SNAP benefits shall be handled as a mass change in accordance with the procedures in [paragraphs \(e\) \(4\), \(5\) and \(6\)](#) of this section. When the State agency has at least 30 days, advance knowledge of the amount of the PA adjustment, the State agency shall make the change in benefits effective in the same month as the PA change. If the State agency does not have sufficient notice, the SNAP change shall be effective no later than the month following the month in which the PA change was made.

(ii) State agencies which also administer a general assistance (GA) program shall handle mass adjustments to GA payments in accordance with the schedules outlined in paragraph (e)(2)(i) and the procedures in [paragraphs \(e\) \(4\), \(5\) and \(6\)](#) of this section. However, where State agencies do not administer both programs, mass changes in GA payments shall be subject to the schedule in paragraph (e)(3) and the procedures in [paragraphs \(e\) \(4\), \(5\) and \(6\)](#) of this section.

**(3) *Mass changes in Federal benefits.*** The State agency shall establish procedures for making mass changes to reflect cost-of-living adjustments (COLAs) in benefits and any other mass changes under RSDI, SSI, and other programs such as veteran's assistance under title 38 of the United States Code and the Black Lung Program, where information on COLA's is readily available and is applicable to all or a majority of those programs' beneficiaries. A State agency may require households to report the change on the appropriate monthly report or may handle the change using the mass change procedures in this section. If the State agency requires the household to report the information on the monthly report, the State agency shall handle such information in accordance with its normal procedures. Households that are not required to report the change on the monthly report, and households not subject to monthly reporting, shall not be responsible for reporting these changes. The State agency shall be responsible for automatically adjusting these households' SNAP benefit levels in accordance with either [paragraph \(e\)\(3\)\(i\)](#) or [\(e\)\(3\)\(ii\)](#) of this section.

(i) The State agency may make mass changes by applying percentage increases communicated by the source agency to represent cost-of-living increases provided in other benefit programs. These changes shall be reflected no later than the second allotment issued after the month in which the change becomes effective.

(ii) The State agency may update household income information based on cost-of-living increases supplied by a data source covered under the Computer Matching and Privacy Protection Act of 1988 (CMA) in accordance with [§ 272.12 of this chapter](#). The State agency shall take action, including proper notices to households, to terminate, deny or reduce benefits based on this information if it is considered verified upon receipt under [§ 273.2\(f\)\(9\)](#). If the information is not considered verified upon receipt, the State agency shall initiate appropriate action and notice in accordance with [§ 273.2\(f\)\(9\)](#).

(4) **Notice for mass change.** When the State agency makes a mass change in SNAP eligibility or benefits by simultaneously converting the caseload, or that portion of the caseload that is affected, using the percentage increase calculation provided for in [§ 273.12\(e\)\(3\)\(i\)](#), or by conducting individual desk reviews using information not covered under the Computer Matching and Privacy Protection Act (CMA) in place of a mass change, it shall notify all households whose benefits are reduced or terminated in accordance with the requirements of this paragraph, except for mass changes made under [§ 273.12\(e\)\(1\)](#); and

(i) At a minimum, the State agency shall inform the household of:

(A) The general nature of the change;

(B) Examples of the change's effect on households' allotments;

(C) The month in which the change will take effect;

(D) The household's right to a fair hearing;

(E) The household's right to continue benefits and under what circumstances benefits will be continued pending a fair hearing;

(F) General information on whom to contact for additional information; and

(G) The liability the household will incur for any overissued benefits if the fair hearing decision is adverse.

(ii) At a minimum, the State agency shall notify the household of the mass change or the result of the desk review on the date the household is scheduled to receive the allotment which has been changed.

(iii) In addition, the State shall notify the household of the mass change as much before the household's scheduled issuance date as reasonably possible, although the notice need not be given any earlier than the time required for advance notice of adverse action.

(5) ***Fair hearings.*** The household shall be entitled to request a fair hearing when it is aggrieved by the mass change.

(6) ***Continuation of benefits.*** A household which requests a fair hearing due to a mass change shall be entitled to continued benefits at its previous level only if the household meets three criteria;

- (i) The household does not specifically waive its right to a continuation of benefits;
- (ii) The household requests a fair hearing in accordance with [§ 273.13\(a\)\(1\)](#); and
- (iii) The household's fair hearing is based upon improper computation of SNAP eligibility or benefits, or upon misapplication or misinterpretation of Federal law or regulation.

## **DISCUSSION**

On January 29, 2024, the Respondent reduced the Appellant's SNAP benefits due to a cost-of-living adjustment through the Social Security Administration. The Appellant appeals the Respondent's decision which reduced her SNAP benefits from \$108.00 to \$95.00 effective March 1, 2024. The Respondent must prove by a preponderance of the evidence that it correctly reduced the Appellant's monthly SNAP allotment.

The Appellant was a recipient of monthly Social Security Disability Widowers (SSDW) benefits in the amount of \$918.00 and Supplemental Security Income benefits in the amount of \$16.00 from the Social Security Administration. Due to the COLA from the Social Security Administration, the Appellant's SSDW increased to \$947.00 effective March 2024. The corresponding increase to the Appellant's monthly income resulted in a decrease of the Appellant's monthly SNAP allotment from \$108.00 to \$95.00.

The Appellant contends that the decrease in her SNAP benefits creates an additional financial burden to her household. The Appellant reported on different financial obligations for which she is responsible. The Respondent indicated that it would provide consideration for additional deductions concerning the Appellant's expenses upon submission of verification documentation.

Federal regulations document that the state agency is responsible for automatically adjusting a household's SNAP benefit to reflect cost-of-living adjustments to benefits from the Social Security Administration. State agencies that make a mass change in SNAP eligibility shall notify all households whose benefits are reduced or terminated with the general nature of the change, the change's effect on the household allotments, the month in which the change will take effect and the household's right to a fair hearing.

The Respondent initiated a mass change to all SNAP recipients who received a cost-of-living adjustment to SSA benefits. The corresponding adjustment in income resulted in a decrease of the



Appellant's monthly SNAP allotment. The Respondent properly provided notice of the benefit change to the Appellant which documented the effect of her SNAP benefits as well as her appeal rights. Based on an evidentiary review, the Respondent's decision to reduce the Appellant's SNAP benefits due to a cost-of-living adjustment mass change is affirmed.

### **CONCLUSIONS OF LAW**

- 1) Policy requires that changes due to a Social Security Administration cost-of-living adjustment are made through a mass change through the agency eligibility system.
- 2) Effective March 2024, the Appellant received a cost-of-living adjustment to her Social Security Disability Widowers benefits from \$918.00 to \$947.00.
- 3) The Respondent initiated a mass change to benefits which reduced the Appellant's monthly SNAP allotment from \$108.00 to \$95.00.

### **DECISION**

It is the decision of the State Hearing Officer to uphold the Respondent's decision to reduce the Appellant's Supplemental Nutrition Assistance Program benefits.

**ENTERED this \_\_\_\_\_ day of March 2024.**

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Eric L. Phillips  
**State Hearing Officer**