



April 16, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 24-BOR-1513

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Patricia White, Department Representative

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

██████████,

Appellant,

v.

Action Number: 24-BOR-1513

**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 26, 2024, upon a timely appeal filed on February 23, 2024.

The matter before the Hearing Officer arises from the February 22, 2024 decision by the Respondent to reduce SNAP benefits.

At the hearing, the Respondent appeared by Patricia White. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request Information form (IG-BR-29)
- D-2 Notice dated February 22, 2024
- D-3 Application form (DFA-2) received August 31, 2023
 Notice dated January 19, 2024
- D-4 WV PATH application dated February 16, 2024
- D-5 Verification checklist dated February 20, 2024

- D-6 IRS Wage and Tax Statement form (W-2)
- D-7 Excerpted case comments from the Respondent's data system regarding the Appellant's case
- D-8 West Virginia Income Maintenance Manual policy excerpts

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 reported zero income on a SNAP application dated August 31, 2023. (Exhibit D-3)
- 3) The Appellant received SNAP benefits based on zero income.
- 4) The Appellant's SNAP case was set for review in January 2024, and the Respondent mailed a notice dated January 19, 2024 (Exhibit D-3) to the Appellant advising of SNAP case closure for failure to complete the review.
- 5) The Appellant reapplied for SNAP benefits on February 16, 2024. (Exhibit D-4)
- 6) The Appellant reported disability income of \$1,292 per month on the February 2024 SNAP application. (Exhibit D-4)
- 7) The Appellant reported that the disability income started August 2022. (Exhibit D-4)
- 8) The Respondent requested verification of items, including the Appellant's disability income, in a February 20, 2024 verification checklist. (Exhibit D-5)
- 9) The Appellant provided verification of the disability income. (Exhibit D-6)
- 10) The Respondent issued a notice dated February 22, 2024 to the Appellant, advising of a reduction in SNAP benefits from \$291 to \$30 monthly. (Exhibit D-2)

- 11) The SNAP reduction was due to the Respondent's correction of the Appellant's SNAP case to include the Appellant's ongoing disability income. (Exhibit D-2)

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), Chapter 4, §4.1, provides, in part:

...

Income is defined as any and all monies received from any source.

The determination of countable income is necessary, because it is, generally, the countable income that is tested against maximum income limits.

The first step in determining countable income is to determine all the incoming monies to the assistance group (AG) and to those whose income is counted for, or deemed to, the AG.

Once all incoming monies have been identified, they are compared to the income exclusions listed in this Chapter, and, if applicable, the income from any excluded source is subtracted.

After all income exclusions have been applied, some of the remaining income may qualify for certain disregards and deductions as outlined in the sections for each specific program.

...

The West Virginia Income Maintenance Manual (WVIMM), Chapter 4, §4.3, provides a chart listing "...sources of income and how they are treated for various benefits." At §4.3.1, item #22, *Disability Benefits from Employer* redirects to *Sick Benefits*. At §4.3.1, item #80, *Sick Benefits from Employer* is noted as countable income for SNAP.

The Code of Federal Regulations, 7 CFR §273.9(b)(2), provides in part (emphasis added):

(2) Unearned income shall include, but not be limited to:

(i) Assistance payments from Federal or federally aided public assistance programs, such as supplemental security income (SSI) or Temporary Assistance for Needy Families (TANF); general assistance (GA) programs (as defined in § 271.2); or other assistance programs based on need. Such assistance is considered to be unearned income even if provided in the form of a vendor payment (provided to a third party on behalf of the household), unless the vendor payment is specifically exempt from consideration as countable income under the provisions of paragraph (c)(1) of this section. Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, shall be considered unearned income.

(ii) Annuities; pensions; retirement, veteran's, or **disability benefits**; worker's or unemployment compensation including any amounts deducted to repay claims for intentional program violations as provided in § 272.12; old-age, survivors, or social security benefits; strike benefits; foster care payments for children or adults who are considered members of the household; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least 20 hours a week.

DISCUSSION

The Appellant appealed the Respondent's decision to reduce SNAP benefits due to income. The Respondent must show by a preponderance of the evidence that it correctly reduced the Appellant's SNAP benefits on this basis.

The Appellant received SNAP benefits and completed a review of eligibility in August 2023. At that time, the Appellant reported his disability income had stopped. The Respondent worker removed this income from his case, causing his SNAP benefits to be calculated without counting this income source.

The Appellant was required to complete another review of his SNAP in January 2024. His SNAP benefits were initially terminated for failure to complete this eligibility review. The Appellant reapplied for SNAP benefits on February 16, 2024 and reported his disability income, with an onset date of August 2022. The Respondent worker requested verification of this income, and, once the verification was received, included it again in the calculation of the Appellant's SNAP benefit level. The Respondent notified the Appellant of the reduction in SNAP benefits in a February 22, 2024 approval letter.

The reduction in question is actually a correction of the Appellant's SNAP case. The Appellant received excessive SNAP benefits based on his report of a terminated income source. Upon reporting this income in a later review (and that its onset was August 2022, apparently without interruption), his SNAP level was corrected to reflect that income.

During the hearing, the Appellant presented no dispute of fact. The Appellant did not dispute the receipt of this income, its amount or specific deductions or disregards used in the SNAP benefit level calculations. The Appellant contended that his approved SNAP level (\$30 monthly) is insufficient, and that "nothing changed" from when his allotment was higher. The Board of Review is unable to provide policy exceptions or modify policy to provide the Appellant a higher SNAP allotment. The Appellant's contention that "nothing changed" is incorrect because the previous, higher SNAP allotment was based on the Appellant's August 2023 report that he no longer received disability income.

Based on the reliable evidence and testimony provided at the hearing, the Respondent has shown that it correctly reduced the SNAP benefits of the Appellant by including a countable income source that was not being counted in the calculation of the Appellant's SNAP allotment.

CONCLUSIONS OF LAW

- 1) Because the Appellant receives an income type which is countable for SNAP purposes, the Respondent must use this income amount in the calculation of the Appellant's SNAP allotment.
- 2) Because this income source was not previously included in the Appellant's SNAP allotment calculation, initiating this change must result in a SNAP allotment decrease.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits by counting an income source erroneously excluded from consideration.

ENTERED this _____ day of April 2024.

**Todd Thornton
State Hearing Officer**