



July 30, 2024

[REDACTED]

RE: [REDACTED] v. WV DoHS/BFA
ACTION NOS.: 24-BOR-2267 and 24-BOR-2447

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,

Tara B. Thompson, MLS
State Hearing Officer
Member, State Board of Review

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

cc: Jennifer Mynes, DoHS

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

██████████,

Appellant,

v.

**Action Numbers: 24-BOR-2267 and
24-BOR-2447**

**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 June 12, 2024, and reconvened on July 3, 2024.

The matter before the Hearing Officer arises from the Respondent's May 22, 2024 decision to terminate the Appellant's Supplemental Nutrition Assistance Program benefits and the June 13, 2024 decision to terminate the Appellant's Adult Medicaid benefits after June 30, 2024.

At the hearing, the Respondent appeared by Jennifer Mynes, DoHS. The Appellant appeared and represented herself. Both parties were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Respondent's Summary
- D-2 Notice, dated May 22, 2024
- D-3 Notice, dated May 17, 2024
- D-4 West Virginia Income Maintenance Manual Income Chart
Post Interview Statement
- D-5 Case Comments, from February 16 through May 22, 2024
- D-6 Email Correspondence, dated June 6, 2024
- D-7 Notice, dated June 13, 2024
- D-8 People's Access to Help (PATH) Application, dated January 17, 2024

Exhibits:

None

After reviewing the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, 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 Adult Medicaid benefits.
- 2) On January 17, 2024, the Appellant applied for SNAP benefits (Exhibit D-8). She listed her address as [REDACTED] (Exhibit D-8).
- 3) On March 29, 2024, the Appellant reported her change of address.
- 4) The Respondent did not make a record of the Appellant's reported address change.
- 5) On May 17, 2024, the Respondent issued a notice to the Appellant's former address — [REDACTED] — advising her SNAP benefits would end after May 31, 2024, because she was an able-bodied adult who received SNAP for three months without meeting the work requirement or being exempt (Exhibit D-3).
- 6) On May 22, 2024, the Respondent issued a notice to the Appellant's former address — [REDACTED] — advising the Appellant that her \$2,846.60 gross monthly unearned income exceeded the \$1,580 SNAP eligibility limit (Exhibit D-2). The notice advised the Appellant was ineligible for SNAP, beginning on July 1, 2024 (Exhibit D-2).
- 7) On May 28 and June 10, 2024, the Respondent received returned mail reflecting the item as undeliverable to the Appellant's old address and reflecting a forwarding address consistent with the Appellant's current address (Exhibit D-1).
- 8) On June 13, 2024, the Respondent issued a notice advising the Appellant was ineligible for Adult Medicaid because her income exceeded the eligibility limit. The notice advised she would continue receiving Adult Medicaid during the pendency of the hearing decision (Exhibit D-7).
- 9) Effective March 2024, 130% of the Federal Poverty Level (FPL) for a one-person AG was \$1,580 and 133% FPL for a one-person AG was \$1,670 (Exhibit D-4).
- 10) On February 16, 2024, the Respondent's worker called the Appellant regarding her incomplete January 17, 2024 SNAP application (Exhibit D-5).

- 11) On February 21, 2024, the Appellant submitted PATH application [REDACTED] for SNAP eligibility and PATH application [REDACTED] for Medicaid eligibility (Exhibit D-5).
- 12) On February 28, 2024, the Respondent's worker conducted an eligibility interview with the Appellant (Exhibit D-5).
- 13) On February 28, 2024, the Appellant reported a loss of earned income and impending UCI income (Exhibit D-5). The Respondent's worker advised the Appellant to report the onset of her UCI (Exhibit D-5).
- 14) On May 21, 2024, the Respondent's worker verified the Appellant's \$662 weekly UCI (Exhibit D-5).
- 15) On April 3 and May 3, 2024, the Respondent's record reflected UCI data exchange matches/alerts received by the local office workers (Exhibit D-1).
- 16) On May 21, 2024, the Respondent's Worker notified the Appellant verbally that she was ineligible for Adult Medicaid because her income exceeded the income eligibility limit.
- 17) The Appellant's UCI began on March 4, 2024.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 4.3.1(92) *Unemployment Compensation Insurance (UCI)* provides that UCI is countable income for determining SNAP eligibility.

WVIMM § 4.3.2 *Countable Sources of Income* provides that unemployment benefits are countable income for determining Adult Group Medicaid eligibility.

WVIMM § 9.3.1 *Advance Notice Requirements, §9.3.1.A. Adverse Action Requiring Advance Notice and § 9.3.1.C Beginning and Ending of the Advance Notice Period* instructs that when a Medicaid or SNAP AG is closed, the Respondent must mail advanced notice to the client at least 13 days before the first day of the month in which the benefits are affected. The 13-day advance notice period begins with the date shown on the notification letter. It ends after the 13th calendar day has elapsed.

SNAP

Code of Federal Regulations 7 CFR § 273.9(a)(1)(i) provides: Participation in SNAP shall be limited to those households whose incomes are determined to be 130% of the Federal income poverty levels.

Code of Federal Regulations 7 CFR § 273.9(a)(2)(i) provides: The net income eligibility standards for SNAP shall be the Federal income poverty levels.

Code of Federal Regulations Code of Federal Regulations 7 CFR § 273.10(c)(1) (ii) provides: Income received during the past 30 days shall be used as an indicator of the income that is and will be available to the household during the certification period.

WVIMM § 4.4.1.B *Consideration of Past Income* provides: The Worker must determine the amount of income received by all persons in the AG in the 30 calendar days before the redetermination date or interview date when the interview is completed on a different day than when the application is received ... The income from the 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 income from a longer period of time, the Worker considers income for the time period he determines to be reasonable.

MEDICAID

WVIMM§ 4.6.1 *Budgeting Method* provides: Eligibility is determined monthly. Therefore, it is necessary to determine a monthly amount of income to count for the eligibility period.

WVIMM § 4.7.4 *Determining Eligibility* provides: The AG's income must be at or below the applicable MAGI standard for the MAGI coverage groups.

WVIMM § 23.10.4 *Adult Group* provides: To be eligible for Adult Group Medicaid benefits, the income must be equal to or below 133% FPL.

WVIMM §§ 10.6.5.A-B *Assistance Group (AG) Closures* and § 10.8.1 *Change in Income* provides: When the client's income changes to the point that he becomes ineligible, the AG is closed.

DISCUSSION

The Respondent determined the Appellant was ineligible for SNAP and Adult Medicaid because her UCI income exceeded the eligibility limits for each program. During the hearing, the Respondent testified that the ABAWD reason listed on the initial SNAP termination notice was an error and that the Appellant's ineligibility decisions were based on her amount of income as indicated on the second notice.

The Respondent bears the burden of proof and had to demonstrate by a preponderance of the evidence that the Appellant's income exceeded the eligibility limits for SNAP and Adult Medicaid eligibility. The Appellant did not contest the date of income onset or amount of UCI considered by the Respondent but argued that the Respondent failed to accurately report her case activity and contended that she did not receive the notices of adverse action. The Appellant argued that she reported her circumstances correctly and learned her benefits were terminated after she called the Respondent to inquire about issues using the benefits. The Respondent had to demonstrate that the Appellant received proper notice of the Respondent's adverse actions.

Income

The Respondent's testimony and summary indicated the Appellant's UCI began on March 4, 2024, and she was required to report the onset of UCI by April 10, 2024. The Appellant did not contest the date of income onset or amount of UCI considered by the Respondent. The Appellant provided reliable testimony that she reported her address and income changes on March 29, 2024. The Respondent did not refute that the Appellant reported the changes on this date.

The evidence revealed the Respondent's representative considered \$2, 846.60 in gross UCI income for the Appellant. According to the policy, the SNAP gross income limit for a one-person AG was \$1,580 and the Adult Medicaid gross income limit for a one-person AG was \$1,670. The policy permits the Respondent to terminate the Appellant's SNAP benefits when the household's income exceeds the income eligibility limit. The preponderance of evidence established the Appellant's income exceeded the eligibility limits.

As the Appellant's income exceeded the programs' respective eligibility limits, the Respondent correctly decided the Appellant was ineligible for SNAP and Adult Medicaid benefits. However, because the Respondent failed to provide the Appellant with proper notice of adverse action, the Respondent's decision to terminate the Appellant's SNAP and Adult Medicaid benefits after May 2024 cannot be affirmed.

Notice

The Appellant argued that the Respondent failed to record her reported address and onset of UCI on March 29, 2024. The Appellant argued that she didn't receive any of her denial notices because the Respondent failed to correct her address after she reported the change through PATH. The Appellant further argued that the Respondent failed to document her calls and form submissions that she made to the Respondent.

The Respondent stipulated that the Appellant was incorrectly determined ineligible because of the ABAWD policy and testified that she was receiving UCI and would have been exempt from the ABAWD requirements. The Respondent's representative testified that once the error was realized, the Respondent issued a notice on May 22, 2024, advising of SNAP ineligibility based on the Appellant's amount of income. However, the evidence revealed that the notice was mailed to the Appellant's incorrect address.

The Respondent's representative did not refute the Respondent's failure to accurately note the Appellant's communicated change of address and onset of UCI income. The Respondent's representative's written summary highlighted DoHS Worker errors regarding the Appellant's income and address changes. The evidence indicated the Respondent's local office workers received UCI income alerts in April and May 2024 but failed to update the Appellant's case with the reported changes. Pursuant to the Respondent's representative's written statement, the Respondent's worker could not locate the Appellant's submitted change report form in the Respondent's system.

The evidence revealed returned mail issued to the Appellant's incorrect address and the Respondent's failure to update the forwarding address in the Appellant's record. The preponderance of evidence corroborated the Appellant's testimony that the Respondent failed to

update her case until she called in May 2024 to inquire about her benefit issues. During the hearing, the Respondent's representative stipulated that she advised the Appellant verbally in May 2024 that her Medicaid benefits would end due to her ineligibility, but a notice was not issued advising when the Appellant's benefits would end. The Respondent's representative provided testimony regarding the termination of the Appellant's benefits and reinstatement during the pendency of the hearing, but specific dates of termination and reinstatement were not established by reliable evidence.

As the Respondent's evidence indicated errors in processing and documenting the Appellant's case, the submitted evidence was insufficient to reliably affirm that the Respondent correctly notified the Appellant in advance of her benefit terminations.

The policy instructs that when the AG's income exceeds the eligibility limit, benefits may be terminated after proper notice is issued. The matter must be remanded for issuance of proper notice before terminating the Appellant's benefits because her income exceeds the eligibility limits.

CONCLUSIONS OF LAW

- 1) To be eligible for SNAP benefits, the Appellant's gross monthly income had to be equal to or less than \$1,580.
- 2) The preponderance of evidence revealed the Appellant's \$2,846 gross UCI income exceeded the SNAP eligibility limit.
- 3) To be eligible for Adult Medicaid benefits, the Appellant's gross monthly income could not exceed \$1,670.
- 4) The preponderance of evidence revealed the Appellant's \$2,846 gross UCI income exceeded the Medicaid eligibility limit.
- 5) The Respondent must mail advanced notice to the client at least 13 days before the first day of the month in which the benefits are affected.
- 6) The preponderance of evidence revealed that the Respondent mailed the May 17 and May 22, 2024 notices of SNAP adverse action to an incorrect address.
- 7) The preponderance of evidence revealed that the Respondent did not issue a notice of adverse action regarding the Appellant's Adult Group Medicaid termination until after the Appellant's hearing request.
- 8) The matter must be remanded for issuance of proper adverse action before terminating the Appellant's SNAP and Adult Medicaid benefits.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's termination of the Appellant's SNAP and Adult Medicaid benefits after May 31, 2024. The matter is **REMANDED** for the issuance of proper advanced notice of adverse action to the Appellant's correct address that reflects the correct basis of benefit termination. It is hereby **ORDERED** that any lost benefits be restored retroactively until proper advanced notice of adverse action is issued.

ENTERED this 30th day of July 2024.

Tara B. Thompson, MLS
State Hearing Officer