



August 19, 2024

[REDACTED]

RE: [REDACTED] v. DoHS/BFA
ACTION NO.: 24-BOR-2717

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Benedict Sokol, [REDACTED] DoHS

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

██████████

Appellant,

v.

Action Number: 24-BOR-2717

**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 August 13, 2024.

The matter before the Hearing Officer arises from Respondent's determination of the Appellant's monthly Supplemental Nutrition Assistance Program (SNAP) allotment.

At the hearing, the Respondent appeared by Benedict Sokol, ██████████ DoHS. The Appellant represented himself. Appearing as a witness for the Appellant was his sister, ██████████. The witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Board of Review Scheduling Order dated July 30, 2024
- D-2 Hearing Request Notification Form
- D-3 Notice of Decision dated July 11, 2024
- D-4 Hearing Request received July 18, 2024
- D-5 Case Comments from June 11 through July 19, 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 for a one-person assistance group.
- 2) The Appellant underwent a SNAP eligibility review in June 2024 and reported the onset of Social Security income of \$1,393 (Exhibit D-5).
- 3) The Appellant's SNAP benefits were pended for verification of his monthly shelter expenses.
- 4) The Respondent received a promissory note showing the Appellant's monthly mortgage amount of \$515.40 and verification of his property taxes of \$722 yearly.
- 5) The Appellant's monthly SNAP allotment effective August 1, 2024, is \$74.

APPLICABLE POLICY

Code of Federal Regulations – 7 CFR §273.9 provides information regarding SNAP income and deductions:

(a) Income eligibility standards. Participation in SNAP shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for SNAP. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for SNAP. Households which are categorically eligible do not have to meet either the gross or net income eligibility standards.

(1) The gross income eligibility standards for SNAP shall be as follows:

(i) The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be 130 percent of the Federal income poverty levels for the 48 contiguous States and the District of Columbia.

(2) The net income eligibility standards for SNAP shall be as follows:

(i) The income eligibility standards for the 48 contiguous States and the District of Columbia, Guam and the Virgin Islands shall be the Federal income poverty levels for the 48 contiguous States and the District of Columbia.

(3) The income eligibility limits, as described in this paragraph, are revised each October 1 to reflect the annual adjustment to the Federal income poverty guidelines for the 48 States and the District of Columbia, for Alaska, and for Hawaii.

(i) 130 percent of the annual income poverty guidelines shall be divided by 12 to determine the monthly gross income standards, rounding the results upwards as necessary. For

households greater than eight persons, the increment in the Federal income poverty guidelines is multiplied by 130 percent, divided by 12, and the results rounded upward if necessary.

(ii) The annual income poverty guidelines shall be divided by 12 to determine the monthly net income eligibility standards, rounding the results upward as necessary. For households greater than eight persons, the increment in the Federal income poverty guidelines is divided by 12, and the results rounded upward if necessary.

(d) **Income deductions.** Deductions shall be allowed only for the following household expenses:

(1) **Standard deduction** —

(i) Effective October 1, 2002, in the 48 States and the District of Columbia, Alaska, Hawaii, and the Virgin Islands, the standard deduction for household sizes one through six shall be equal to 8.31 percent of the monthly net income eligibility standard for each household size established under [paragraph \(a\)\(2\)](#) of this section rounded up to the nearest whole dollar. For household sizes greater than six, the standard deduction shall be equal to the standard deduction for a six-person household.

(2) **Earned income deduction.** Twenty percent of gross earned income as defined in [paragraph \(b\)\(1\)](#) of this section. Earnings excluded in [paragraph \(c\)](#) of this section shall not be included in gross earned income for purposes of computing the earned income deduction, except that the State agency must count any earnings used to pay child support that were excluded from the household's income in accordance with the child support exclusion in [paragraph \(c\)\(17\)](#) of this section.

(3) **Excess medical deduction.** That portion of medical expenses in excess of \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled as defined in [§271.2](#). Spouses or other persons receiving benefits as a dependent of the SSI or disability and blindness recipient are not eligible to receive this deduction but persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction.

(4) **Dependent care.** Payments for dependent care when necessary for a household member to search for, accept or continue employment, comply with the employment and training requirements as specified under [§273.7\(e\)](#), or attend training or pursue education that is preparatory to employment, except as provided in [§273.10\(d\)\(1\)\(i\)](#). Costs that may be deducted are limited to the care of an individual for whom the household provides dependent care, including care of a child under the age of 18 or an incapacitated person of any age in need of care. The costs of care provided by a relative may be deducted so long as the relative providing care is not part of the same SNAP household as the child or dependent adult receiving care. Dependent care expenses must be separately identified, necessary to participate in the care arrangement, and not already paid by another source on behalf of the household.

5) **Optional child support deduction.** At its option, the State agency may provide a deduction, rather than the income exclusion provided under [paragraph \(c\)\(17\)](#) of this section, for legally obligated child support payments paid by a household member to or for a non-household member, including payments made to a third party on behalf of the non-household member (vendor payments) and amounts paid toward child support arrearages. Alimony payments made to or for a non-household member shall not be included in the child support deduction.

(6) **Shelter costs** —

(i) **Homeless shelter deduction.** A State agency may provide a standard homeless shelter deduction of \$143 a month to households in which all members are homeless individuals but are not receiving free shelter throughout the month. The deduction must be subtracted from net income in determining eligibility and allotments for the households.

(ii) **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:

(iii) **Standard utility allowances.**

(A) With FNS approval, a State agency may develop the following standard utility allowances (standards) to be used in place of actual costs in determining a household's excess shelter deduction: an individual standard for each type of utility expense; a standard utility allowance for all utilities that includes heating or cooling costs (HCSUA); and, a limited utility allowance (LUA) that includes electricity and fuel for purposes other than heating or cooling, water, sewerage, well and septic tank installation and maintenance, telephone, and garbage or trash collection. The LUA must include expenses for at least two utilities.

§273.10 Determining household eligibility and benefit levels.

(e) **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.

(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.

(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. 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.*

(i) (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.

(ii) (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.

West Virginia Income Maintenance Manual Chapter 4 explains SNAP income and deductions:

4.4.2.B Allowable Disregards and Deductions

The following are the only allowable disregards and deductions for the SNAP. They apply to the income of the AG members and any individual sanctioned/penalized due to enumeration, Intentional Program Violation (IPV), failure to comply with a work requirement, or disqualified by law.

4.4.2.B.1 Earned Income Disregard

Twenty percent (20%) of gross countable earned income, including gross profit from self-employment, is disregarded. This disregard is applied to the combined earnings of all members of the AG and to those persons whose income is counted or deemed. It is intended to cover those expenses incidental to employment or training, such as transportation, meals away from home, special clothing, and payroll deductions.

4.4.2.B.2 Standard Deduction

A Standard Deduction is applied to the total non-excluded income counted for the AG, after application of the Earned Income Disregard. The amount of the Standard Deduction is found in Appendix B.

4.4.2.B.3 Dependent Care Deduction

A deduction is allowed for payment for the care of a child or other dependent, when the expense is necessary for an income group member to accept, continue or seek employment or training, or pursue education that is preparatory to employment.

4.4.2.B.4 Child Support Deduction

A deduction is allowed for legally obligated child support actually paid by an AG member or disqualified individual to an individual not residing in the same household.

4.4.2.B.5 Homeless Shelter Standard Deduction

This deduction may be applied when a homeless AG incurs any shelter/utility expenses for the month. Homeless AGs that receive free housing and utilities throughout the month are not eligible for the deduction. However, if they incur any shelter or utility expense, regardless of the amount, any time during the month, they qualify for the Homeless Shelter Standard Deduction.

4.4.2.B.6 Medical Expenses

Medical expenses in excess of \$35 must be allowed as a medical deduction for AG members who are elderly, which is at least age 60, or disabled, as defined in Section 13.15. Once the medical expenses of all such AG members have been totaled, the amount of the total in excess of \$35 is used as a medical deduction. Thirty-five dollars (\$35) is deducted from the total amount of expenses for the AG, not \$35 from each person's expenses. There is no maximum dollar limit for a medical deduction.

4.4.2.B.7 Shelter/Utility Deduction

After all other exclusions, disregards, and deductions have been applied, 50% of the remaining income is compared to the total monthly shelter costs and the appropriate SUA. If the shelter costs/SUA exceed 50% of the remaining income, the amount in excess of 50% is deducted. The deduction cannot exceed the shelter/utility cap found in Appendix B.

4.4.2.C Shelter Expense

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

- Rent.
- 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.
- 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.
- A car payment when a homeless AG lives in their vehicle. Insurance on the vehicle itself when a homeless AG lives in their vehicle.

4.4.2.C.1 Standard Utility Allowance (SUA)

SUAs are fixed deductions that are adjusted yearly to allow for fluctuations in utility expenses. AGs with utility expenses for both occupied and unoccupied homes may only use the SUA for one home of his choice. These deductions are the Heating/Cooling Standard (HCS), the Non-Heating/Cooling Standard (NHCS), and the One Utility Standard (OUS). The current SUA amounts are found in Appendix B. AGs that are obligated to pay from their resources a utility expense that is billed separately from their shelter expenses are eligible for an SUA deduction.

Heating/Cooling Standard (HCS)

AGs that are obligated to pay a heating or cooling expense that is billed on a regular basis are eligible for the HCS. There does not have to be a monthly bill for heating or cooling throughout the year, just a regular bill for heating or cooling during the appropriate season.

Non-Heating/Cooling Standard (NHCS)

AGs that do not qualify for the HCS but incur two or more utility expenses or at least one utility expense when sharing a residence that has two or more utilities, are eligible for the NHCS.

One Utility Standard (OUS)

AGs that do not qualify for the HCS or the NHCS, but incur one utility expense, are eligible for the OUS.

West Virginia Income Maintenance Manual §4.4.3 states when no assistance group (AG) member is elderly or disabled, the gross income must be equal to, or less than, the gross income limit in Appendix A. If so, the AG qualifies for the disregards and deductions. If the gross income exceeds the amount in Appendix A, the AG is ineligible. When at least one AG member is elderly, which is at least age 60, or disabled, eligibility is determined by comparing the countable income to the maximum net monthly income found in Appendix A. There is no gross income test. When the AG is Categorically Eligible as defined in Chapter 1, the gross income test is presumed to be met.

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
- Step 4: Subtract the Standard Deduction (\$198)
- 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. The Heating/Cooling SUA is \$496.
- Step 10: If the shelter/SUA costs are equal to or less than the amount found in step 9, no further computation is needed, the amount from step 8 is the countable income. If the shelter/SUA costs are greater than step 9, the amount in excess of 50% is deducted to arrive at the countable income. Elderly/disabled households are not subject to the shelter/utility cap.
- Step 11: Compare the countable income to the maximum net income in Appendix A for the AG size.

To determine the SNAP allotment, find the countable income and the maximum benefit allotment for the AG in Appendix A. The Worker will determine the benefit amount by using the following method. The eligibility system also uses this method.

- Multiply net income by 30% (Round up)
- Subtract 30% of net income as calculated above from the maximum monthly benefit for the AG size

West Virginia Income Maintenance Manual Chapter 4 Appendix A lists the maximum SNAP allotment for a one-person AG as \$291.

DISCUSSION

Pursuant to policy and federal regulations, monthly SNAP allotments are determined by an assistance group's countable income, after all allowable deductions have been applied. The

Appellant contested the Respondent's determination of his monthly SNAP allotment of \$74, effective August 1, 2024.

The Respondent determined the Appellant's SNAP allotment using the formula found in policy:

\$1,393	gross unearned income
- \$198	standard deduction
= \$1,195	remainder

The Appellant pays \$515.40 each month for a mortgage, \$722 yearly ($722/12 = \60.16 monthly) in property taxes and pays for the heating/cooling of his home. The Appellant is entitled to the Heating/Cooling Standard Utility Allowance deduction of \$496. Fifty percent of the Appellant's remaining income is \$597.50 (\$1,195 divided by 2) which is less than the Appellant's total shelter/utility costs of \$1,071.56 (\$515.40 mortgage plus \$60.16 property tax plus SUA \$496). The Appellant is entitled to the difference of the shelter/utility costs and 50% of the remaining income as a shelter deduction:

\$1,071.56	mortgage/property tax/SUA
- \$597.50	50% of remaining income
= \$474.06	total shelter deduction

The Appellant's countable net income, after all allowable deductions have been applied, is \$720.94 (\$1,195 minus \$474.06). Thirty percent of the net income is subtracted from the maximum SNAP allotment for the size of the assistance group:

\$291	maximum SNAP allotment for a one-person assistance group
- \$216	30% of net income
= \$75	SNAP allotment

The Respondent's witness testified that the Appellant's yearly property taxes were \$722 yearly or \$58.35 monthly, however, the yearly amount divided by 12 is \$60.16. There was no testimony or evidence provided to explain the discrepancy in the Respondent's calculation of the Appellant's monthly property tax deduction. The Respondent correctly reduced the Appellant's monthly SNAP benefits due to the onset of his Social Security income, however, the matter is remanded to the Respondent for a correct determination of his monthly shelter costs.

CONCLUSIONS OF LAW

- 1) Monthly SNAP allotments are determined by an assistance group's countable income, after all allowable deductions have been applied.
- 2) The Respondent reduced the Appellant's monthly SNAP benefits due to the onset of Social Security income.
- 3) The Respondent incorrectly calculated the Appellant's monthly property tax deduction and resulting SNAP allotment.

DECISION

It is the decision of the State Hearing Officer to **uphold** the reduction of the Appellant's Supplemental Nutrition Assistance Program benefits. The matter is **remanded** for a correct calculation of the Appellant's monthly shelter costs and monthly benefit amount.

ENTERED this 19th day of August 2024.

Kristi Logan
Certified State Hearing Officer