STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF HUMAN SERVICES
APPEALS OFFICE
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Docket # 14-2116
Hearing Date: December 18, 2014

Date: December 30, 2014

[redacted]

ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided against you. During the course of the proceeding, the following issue(s) and Agency policy reference(s) were the matters before the hearing:

THE DHS PROVIDER MANUAL: SNAP
SECTION: 1008.15.10 (7 CFR 273.9) **Unearned Income**
1008.20.25 (7 CFR 273.9) **Shelter Expense Deduction**

The facts of your case, the Agency policy, and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the Appellant), Michaela Miller SNAP Supervisor and the Policy Unit.

Present at the hearing were: You (the Appellant), Michaela Miller the SNAP Supervisor and Norman Ospina the interpreter from Narragansett Translations for the Appellant.

ISSUE: Were the Appellant's SNAP benefits reduced per Agency Policy in September 2014?

DHS POLICIES:
Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Policy and Provider Manuals.

APPEAL RIGHTS:
Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

DISCUSSION OF THE EVIDENCE:

The Agency Representatives testified:

- The Agency issued a notice on September 17, 2014 to the Appellant informing him that a review of his SNAP benefits was completed and as a result, his SNAP benefits were decreasing from $261.00 to $171.00 beginning October 1, 2014.
- The Appellant filed an Appeal of the Agency's notice on September 17, 2014, indicating that he "did not agree with the decision on cutting down" his benefits.
- The Agency's notice on September 17, 2014 stated that the reason for the Appellant's SNAP budget decrease was due to the household's unearned income went up from $942.00 to $1,142.00 (RI DHS SNAP Policy § 1008.15.10) and due to the allowed shelter and utility costs went down from $506.00 to $406.00 (RI DHS SNAP Policy § 1008.20.25)
- The Appellant has a monthly unearned income of $845.70 (RSDI) and his spouse has a monthly unearned income of $296.92 ($136.92 SSI and $160.00 RSDI) (rounded to $297.00), leaving an unearned monthly income in the amount of $1,142.00.
- The Appellant has rent of $300.00 per month and a utility credit of $106.00 per month, which equal $406.00 as an excess shelter deduction.
- The Appellant's SNAP budget was based on amounts presented to the Agency and the calculation were:

Unearned income	$1,142.00
Standard deduction	-$ 152.00
Excess shelter deduction	-$ 406.00
Equals SNAP income agency count	=$ 584.00
SNAP benefits for two	=$ 171.00

- The cause of the decrease in benefits was also due to some of the Appellant's spouse's income was not previously reported and/or calculated by the agency which caused over payments being made, roughly $90.00 per month.
- The Appellant's budget could increase if he was able to present out of pocket medical expenses and maybe housing expenses.
- An Administrative Hearing was conducted with regards to this matter on October 27, 2014 and a decision had been issued against the Appellant.
- The Appellant filed another appeal due to having his SNAP benefit lowered on October 27, 2014 because the Appellant is claiming that the agency used an incorrect figure with regards to his wife's income.
- The agency stands by the same numbers and calculations as they used at the last Hearing.

- The agency calculated the Appellant's wife's income is generate from $137.00 ($97.00 from Social Security plus $39.92 from SSP (a supplemental income)) and an additional $160.00 (from RSDI), leaving the Appellant's spouse with a monthly income of $297.00 (rounded to the closest dollar).
- The $39.92 has been issued directly to the Appellant's spouse monthly since April of 2014 and is deposited in an account ending in [redacted] and held in solely the Appellant's spouse's name.
- The agency indicates that they have only used the financial figures that the Appellant has provided and that the SNAP benefits can only be based on federal regulations and state policy.

The Appellant testified:

- The Appellant states that at his Hearing from October 27, 2014, the agency indicated that his wife receives $137.00 from SSI but in fact she only receives $97.00, which is reflected in a letter that the Appellant presented from the Office of Social Security and this is the reason for this appeal. He wasn't positive that his spouse received $97.00 at the last Hearing but now he has proof that she is not receiving $137.00.
- The Appellant is not aware of the additional $39.92 being issued to his wife.
- The Appellant attempted to telephone his wife during this Hearing for some clarification but was not able to reach her.

FINDINGS OF FACT:

- The Agency issued a notice on September 17, 2014 to the Appellant informing him that a review of his SNAP benefits was completed and as a result, his SNAP benefits were decreasing from $261.00 to $171.00 beginning October 1, 2014. The Agency's notice stated that the reason for the Appellant's SNAP budget decrease was due to the household's unearned income went up from $942.00 to $1,142.00 (RI DHS SNAP Policy § 1008.15.10) and due to the allowed shelter and utility costs went down from $506.00 to $406.00 (RI DHS SNAP Policy § 1008.20.25)
- The Appellant filed an Appeal of the Agency's notice on September 17, 2014, indicating that he "did not agree with the decision on cutting down" his benefits.
- The Appellant has a monthly unearned income of $845.00 (RSDI) and his spouse has a monthly unearned income of $296.92 ($136.92 SSI and $160.00 RSDI) (rounded to $297.00), leaving an unearned monthly income in the amount of $1,142.00. The Appellant has rent of $300.00 per month and a utility credit of $106.00 per month, which equal $406.00 as an excess shelter deduction.
- The Appellant's SNAP budget was based on amounts presented to the Agency and the calculation were:

Unearned income	$1,142.00
Standard deduction	-$ 152.00
Excess shelter deduction	-$ 406.00
Equals SNAP income agency count	=$ 584.00
SNAP benefits for two	=$ 171.00

- The cause of the decrease in benefits was also due to some of the Appellant's spouse's income was not previously reported and over payments were made, roughly $90.00 per month.
- The agency calculated the Appellant's wife's income is generate from $137.00 ($97.00 from Social Security plus $39.92 from SSP (a supplemental income)) and an additional $160.00 (from RSDI), leaving the Appellant's spouse with a monthly income of $297.00 (rounded to the closest dollar).
- The $39.92 is issued directly monthly to the Appellant's spouse since April of 2014 and is deposited in an account ending in 8306 and held in the Appellant's spouse's name.
- The Appellant is not aware of the additional $39.92 being issued to his wife.

CONCLUSION:
The issue to be decided is whether the Appellant's SNAP benefits were reduced per Agency policy in September of 2014.

The agency had reviewed some paperwork in which the Appellant had brought to them, upon reviewing those documents, the Agency determined that the Appellant's SNAP budget would change. On September 17, 2014 the agency issued a Notice to the Appellant informing him that his SNAP benefits would be changing effective October 1, 2014. The Notice stated that beginning October 1, 2014, the Appellant's SNAP benefits were decreasing from $261.00 to $171.00 because the unearned income went up from $942.00 to $1,142.00 and due to the allowed shelter and utility costs went down from $506.00 to $406.00. The primary cause of the decrease in benefits was also due to some of the Appellant's spouse's income was not previously reported and/or not calculated by the agency and several months of over payments were issued, at roughly $90.00 per month. There was no indication that the Appellant tried to mislead the agency in anyway.

After receiving some paperwork from the Appellant and reviewing his case, the agency determined that the Appellant has a monthly unearned income of $845.00 (RSDI) and his spouse has a monthly unearned income of $296.92 ($136.92 SSI and $160.00 RSDI) (rounded to $297.00), leaving an unearned monthly income in the amount of $1,142.00. The agency presented evidence that was entered into evidence that shows $39.92 being paid to the Appellant's spouse on monthly bases. The agency presented computer screen shots from their computer system showing that $39.92 was electronically transferred to the Appellant's spouse bank account, particularly account ending in [redacted]. This amount had been transferred on nine different occasions to date. The Appellant's spouse also receives $97.00 monthly from social security and $160.00 from RSDI monthly. The Appellant has rent of $300.00 per month and a utility credit of $106.00 per month, which equal $406.00 as an excess shelter deduction.

The agency determined the Appellant's SNAP budget by calculating amounts presented to the Agency by the Appellant. The Agency based its' decision on the following figures:

Unearned income	$1,142.00
Standard deduction	-$ 152.00
Excess shelter deduction	-$ 406.00
Equals SNAP income agency count	=$ 584.00
SNAP benefits for two	=$ 171.00

The agency again stressed that the figures used in calculating the Appellant's SNAP budget was based on the figures that the Appellant recently presented to the agency. Furthermore, the SNAP budget is based on federal guidelines, which cannot be deviated from.

The Appellant testified that he filed an appeal again on this issue once his found to paperwork at home that his wife only $97.00 from SSI and not the $137.00 that the agency is claiming. Again, the Appellant testified that he has no knowledge of his wife receiving this extra $39.92 per month or even knew that she had received this monthly payment since April of 2014.

During the Hearing, the Appellant requested a short recess in order to contact his wife and receive some clarification. Unfortunately, the Appellant was not able to reach his wife by telephone.

The DHS SNAP Policy § 1008.15.10 allows the Agency to calculate the Appellant's and his wife's unearned income from their RSDI and SSI payments which totals $1,142.00 per month. The figure of $1,142.00 is the sum of the Appellant's RSDI unearned monthly payment of $845.00 and his spouse's unearned income of $136.92 from SSI and $160.00 from a portion of the Appellant's RSDI monthly income. The Appellant received credit for a Standard Deduction, per § 1038.05, as well as the Shelter Expense Deduction per policy § 1008.20.25.

In conclusion, the Agency reviewed all the paperwork that the Appellant had recently turned in and upon the evaluation of the case as required by federal regulations, determined that the Appellant's SNAP budget needed to be reduced due to the Appellant's increase of unearned monthly income, particularly due to the increase of his wife's income and the reduction of the Appellant's excess shelter decreasing.

After a careful review of the Agency's policies, as well as the evidence and testimony given, this Appeals Officer finds that the Appellant's SNAP benefits were reduced per agency policy in September 2014. The appellant's request for relief is therefore denied.

Thomas Bucacci

Thomas Bucacci
Appeals Officer

APPENDIX

RHODE ISLAND DEPARTMENT OF HUMAN SERVICES

1008.15.10 (7 CFR 273.9) Unearned Income

REV:01/2009

The following types of income are considered unearned: (This list is not inclusive.)

- Assistance Payments
- Pensions, Social Security
- Support and Alimony
- Educational Loans and Grants
- Managed Income
- Garnishments
- Grants, Interest Payments
- Income from Excluded Household Members
- Certain Rental Income
- Certain "Vendor" Payments
- Trust Withdrawals
- Deemed Income from an Alien's Sponsor
- Income of Individuals Disqualified for an IPV
- Foster Care Payments

1008.20.25 *(7 CFR 273.9)* Shelter Expense Deduction

REV:04/2005

REV:04/2005 Monthly shelter costs in excess of fifty percent (50%) of the household's income after all the above deductions have been allowed. The shelter deduction must not exceed the maximum provided in Section 1038.15 unless the household contains a member who is elderly or disabled as defined in Section 1010.30.05 (includes a disabled veteran or a surviving disabled spouse/child(ren) of a veteran). Such households receive an excess shelter deduction for the monthly cost that exceeds fifty percent (50%) of the household's monthly income after all other applicable deductions. The maximum shelter cost deduction is subject to change annually.

Shelter costs include only the following:

A standard shelter expense estimate for all homeless households where all members are homeless and are not receiving free shelter throughout the calendar month.

All homeless households which incur or reasonably expect to incur shelter costs in a month shall be eligible for the estimate unless higher costs are verified, at which point the household may use actual shelter costs rather than the estimate. Homeless households which incur no shelter costs shall not be eligible for the standard estimate. The homeless household shelter estimate is located in Section 1038.17.

Continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of shelter, such as loan repayments for the purchase of a mobile home, including interest on such payments. Payments on second mortgages and home equity loans are allowable shelter costs. Payments on personal loans that are not secured by a lien on the property are not allowable costs even if the bank is listed as a beneficiary on the homeowner's insurance policy. If a household owns a home and lot and later purchases a connecting piece of property, the mortgage payments on the new property can only be allowed as shelter costs if the new property was financed by a second mortgage or other loan secured by the home and lot.

* Property taxes, state and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

* Charges for heating, cooling, and cooking fuel; electricity; water and sewer; garbage and trash collection fees; the basic service fee for one telephone, including tax on the basic fee; and fees charged by the utility provider for initial installation of the utility. One-time deposits are not included as shelter costs. Note that the Standard Utility Allowance must be utilized instead of actual charges if the household incurs charges for heating and/or cooling expenses; see Section 1008.20.25.05.

* The above shelter costs for the home if not actually occupied by the household because of employment away from home, illness, or abandonment of the home due to natural disaster or casualty loss. For the costs of a vacated home to be included in shelter costs, the household must intend to return to the home; the current occupants of the home, if any, must not be claiming the shelter costs during the absence of the household; and the home must not be leased or rented in the household's absence. Households claiming utility costs for unoccupied homes must verify the actual expenses; the standard utility allowance must be used if the household incurs heating and/or cooling expenses.

* Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood. Shelter costs do not include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source. The cost of repairs as a result of wear and tear, incidental repairs, and improvements are not allowed for homeowners, renters who work-off their rent, or other renters.

* For condominium owners, the entire condominium fee is allowable as a shelter cost.

* Adjustment of Shelter Deduction Effective October 1, 1988, and each October 1 thereafter, the maximum limit for the excess shelter expense deduction is adjusted to reflect changes in the shelter, fuel and utilities components of the housing costs in CPI-U for the twelve (12) months ending the preceding June 30.

These adjustments are based on the previous unrounded numbers, and the result rounded down to the nearest lower dollar increment.

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.