

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

[REDACTED],	:	
	:	
Petitioner,	:	
	:	Docket No.
v.	:	OSAH-DFCS-FSP-[REDACTED]
	:	KENNEDY
DHS, FAMILY AND CHILDREN	:	
SERVICES,	:	
	:	
Respondent.	:	

INITIAL DECISION

I. Introduction

Petitioner appealed Respondent's decision to reduce Petitioner's benefits under the Food Stamp Program. A hearing was held on August 14, 2013 in Toccoa, Stephens County, Georgia. For the reasons given below, Respondent's action is **AFFIRMED**.

II. Findings of Fact

1.

At Petitioner's most recent review, completed on May 7, 2013, Petitioner reported five household members. She also reported the following relevant information:

- Petitioner's household does not receive earned income;
- Petitioner's minor son has been determined disabled. He receives Social Security benefits totaling \$710.00 per month;
- Petitioner receives \$350.00 per month in the form of alimony/child support;
- Petitioner pays \$950.00 per month as rent to her mother, which includes \$200.00 for utilities. Any utility expenses exceeding \$200.00 per month must be paid by Petitioner separately, which Petitioner testified occurs every month;¹
- Petitioner's utilities include water, gas, electric and garbage;
- Petitioner does not pay child support to anyone; and
- Petitioner does not incur dependent care costs.

(Testimony of Petitioner; Testimony of Respondent's Representative, Sherri Deal)

¹ Respondent's Food Stamp budget for Petitioner's household shows an Excess Shelter Deduction totaling \$856.50.

2.

Petitioner's disabled son has various medical expenses. At each Food Stamp review, Respondent removes any medical expenses that were allowed in Petitioner's prior Food Stamp budget. Respondent then adds any new medical expenses submitted by Petitioner that qualify for an Excess Medical Deduction. (Testimony of Petitioner; Testimony of Respondent's Representative; Exhibits P1, P2, P3, R1, R2, R2-1 through R2-24, R3, R4, R5, R6)

3.

At Petitioner's May 7, 2013 review, she presented a letter on Ty Cobb Regional Medical Center letterhead indicating her son had a patient balance totaling \$7,987.00 as of April 30, 2013.² The letter further indicated that "insurance has been filed," but has not paid yet. Because this letter failed to specify the amount Petitioner is obligated to pay, Respondent contacted the medical facility to request additional information. Respondent was advised that "in the end Social Security should pay the balance." Accordingly, because it appeared Petitioner was not personally liable for the medical services, Respondent was unable to include the medical bills in Petitioner's Food Stamp budget for the next certification period covering May through October 2013.³ At the time of the review, Petitioner did not present any other medical expense verification that had not been previously included in a prior Food Stamp budget. Subsequent to the review, Petitioner presented a medical bill indicating that Petitioner's son had incurred a medical expense totaling \$345.00 on June 26, 2013. Respondent added this one medical bill to Petitioner's Food Stamp budget, which resulted in an increase in Food Stamp benefits for the month of September 2013. (Testimony of Petitioner; Testimony of Respondent's Representative; Exhibits P1, P2, P3, R1, R2, R2-2 through R2-27, R3, R4, R5)

4.

Based on the above information, Respondent calculated Petitioner's Food Stamp allotment to be \$788.00 per month for the certification period covering May through October 2013. Petitioner

² Petitioner also submitted a document showing the individual cost for each service.

³ Petitioner testified she believed that mileage for traveling to and from medical visits, as well as additional supplements, were included in her Food Stamp budget as medical expenses. Petitioner further testified that a representative of Respondent told her she could just provide an estimated amount of mileage and did not have to provide any other documentation. However, mileage documentation is required for it to qualify as a deduction. Moreover, Respondent's records indicate no such deduction was given for the most recent review, though it was allowed in April 2012. There is insufficient evidence in the record before this court to establish the excess medical deduction Petitioner would be entitled to if she provided proper verification of the mileage and supplements for the current review period. Accordingly, such costs are not taken into consideration in this matter. (Testimony of Petitioner; Testimony of Respondent's Representative; Exhibit R2-1, R2-25, R6)

had previously received \$793 per month for the certification period covering November 2012 through April 2013, which is the maximum allotment permitted for a household of five persons. Because of the June 2013 medical bill Petitioner submitted, Petitioner's Food Stamp benefits increased from \$788.00 to \$793.00 for the month of September 2013. (Testimony of Petitioner; Testimony of Respondent's Representative; Exhibits R2-2 through R2-24, R-3, R-4, R-5)

III. Conclusions of Law

1.

Because Respondent sought to reduce Petitioner's Food Stamp benefits, Respondent bears the burden of proof. Ga. Comp. R. & Regs. r. 616-1-2-.07. The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. r. 616-1-2-.21.

2.

The Supplemental Nutrition Assistance Program ("SNAP") (formerly known as the "Food Stamp Program") is governed by the Food and Nutrition Act of 2008, 7 U.S.C. § 2011 et seq.; 7 C.F.R. § 271.1, et seq.; and the Food Stamp Manual. To qualify for assistance, an individual must meet financial eligibility requirements.

3.

One financial eligibility requirement, the gross income eligibility standard, applies to all households that do not contain an elderly or disabled individual. Because Petitioner's household contains a disabled individual, this financial eligibility requirement is inapplicable. 7 C.F.R. § 273.9(a)(1); Food Stamp Manual, § 3610-1.

4.

Even though the gross income limit is inapplicable because Petitioner's household contains a disabled individual, the net income limit standard still applies. The net income limit standard is equal to 100% of the federal poverty level. 7 C.F.R. § 273.9(a)(1), (2)(i); Food Stamp Manual, § 3610-1. For an assistance unit of five persons, the net income limit is \$2,251.00. 7 C.F.R. § 273.9(a)(4); Food Stamp Manual, § 3610-1 and Appendix A.

5.

To calculate an assistance unit's net income, Respondent subtracts the following deductions, if applicable, from the assistance unit's gross income:

- 20% earned income deduction
- standard deduction
- excess medical deduction
- dependent care deduction
- child support deduction
- excess shelter deduction

7 C.F.R. § 273.9(d); Food Stamp Manual, § 3611-1.

6.

Petitioner's household receives Social Security benefits and Child Support/Alimony. As Social Security Income and Child Support/Alimony are forms of unearned income, Petitioner is not eligible for the 20% earned income deduction. C.F.R. § 273.9(b)(2).

7.

The standard deduction is "equal to 8.31 percent of the monthly net income eligibility standard for each household size . . . rounded up to the nearest whole dollar," but may not be less than \$134.00. 7 C.F.R. § 273.9(d)(1)(i), (iii). In Georgia, the standard deduction for an assistance unit of five persons is \$187.00. Food Stamp Manual, § 3613-1. Petitioner is eligible to receive this deduction.

8.

To qualify for the excess medical deduction, a person must be elderly or disabled⁴ and have medical expenses⁵ in excess of \$35.00 per month that are not paid by an insurance company or someone who is not a member of the household. Only the amount over \$35.00 may be deducted. Proof of medical expenses and insurance payments is required before a deduction for these expenses may be allowed. Additionally, once an expense is allowed as a deduction, it cannot be

⁴ "Disabled individuals for FSP purposes are defined as qualifying under one of the following categories: 1) receiving disability benefits under Titles I, II, X, XIV or XVI of the Social Security Act or, 2) receiving VA disability benefits for a service-connected or non-service-connected disability and the disability is rated as total or paid at the total rate by the VA (includes veterans, surviving spouse or surviving child of a veteran who is considered by the VA to be entitled to compensation and has a disability considered permanent under the SSA Act) or, 3) receiving Railroad Retirement disability annuity and has been determined to qualify for Medicare or, 4) receiving or certified for SSI or interim assistance pending receipt of SSI or, 5) receiving disability-related Medicaid assistance under Title XIX of the SSA (known as State Medical Eligibility Unit (SMEU), or 6) receiving disability retirement benefits from a governmental agency because of a disability considered permanent under Section 221(i) of the Social Security Act. "Receiving" is defined as receipt of or approval for benefits or services. If benefits are not being paid due to overpayments, the individual is still considered a recipient." Food Stamp Manual, Appendix E-3.

⁵ Allowable costs include most medical and dental expenses including doctor bills, prescription drugs and over-the-counter medication when approved by a doctor, dentures, nursing care. Related expenses are included, such as certain transportation costs, attendant care and health insurance premiums. The costs of special diets are not allowable medical costs. 7 C.F.R. § 273.9(d)(3).

used again in a subsequent Food Stamp budget. 7 C.F.R. § 273.9(d)(3). Petitioner may receive an Excess Medical Deduction if she submits the appropriate documentation and if the expenses is a qualified expense.

9.

Actual costs incurred for the care of children or other dependent if necessary for a household member to accept or continue employment, comply with the employment and training requirements of the Food Stamp program, or attend training or pursue education which is preparatory to employment qualifies as a Dependent Care Deduction. The maximum monthly deduction amount is \$200 a month for each dependent child under 2 years of age, and \$175 a month for any other dependent. 7 C.F.R. § 273.9(d)(4). Because Petitioner does not incur any dependent costs, she is not eligible for this deduction.

10.

A deduction is permitted for child support payments made by a household member to a non-household member. 7 C.F.R. § 273.9(d)(5). Since no one in Petitioner's household pays child support to a non-household member, this deduction is inapplicable.

11.

The excess shelter deduction consists of monthly shelter expenses in excess of 50 percent of the household's income after all other deductions have been allowed. 7 C.F.R. § 273.9(d)(6)(ii). Monthly shelter expenses may include both rent and utility expenses. Food Stamp Manual, § 3617-1.

12.

The evidence in this case supports that Petitioner is entitled to receive the standard deduction at \$187.00, and the excess shelter deduction calculated by Respondent to be \$856.50. Although Petitioner requested an Excess Medical Deduction, Respondent has established that the medical documentation submitted is insufficient to qualify for an Excess Medical Deduction for the most recent certification period, with the exception of the June 2013 medical expense that was appropriately applied to the September 2013 budget upon receipt of verification of the expense. Petitioner has not submitted any additional documentation to refute Respondent's evidence that she is not entitled to an Excess Medical Deduction, with the exception of the June 2013 bill. She also has not submitted appropriate documentation to receive a deduction for mileage costs for

medically related travel. Accordingly, Respondent has met its burden of proof to show that Petitioner is not entitled to an Excess Medical Deduction, with the exception of the June 2013 medical expense incurred that was applied to the September 2013 budget. Petitioner has failed to effectively rebut Respondent's evidence.

13.

Petitioner's excess shelter deduction is calculated as follows:

First, Petitioner's rent payment is added to the utility costs. The applicable deduction for utility expenses is either Actual Utilities, Limited Standard Utility Allowance "LSUA" or Heating/Cooling Standard Utility Allowance "H/C SUA". To receive the H/C SUA the person must be billed or expect to be billed in the next 12 months for a heating or cooling cost separate from rent or mortgage. Food Stamp Manual, § 3617-5. Although a portion of Petitioner's utility costs are included in her rent, she testified that she consistently pays additional utility costs related to heating and cooling, and garbage, entitling her to the H/C SUA.

\$950.00	(Rent)
<u>\$343.00</u>	(Standard H/C Utility Allowance)
= \$1,293.00	(total monthly shelter costs)

Second, Respondent calculates Petitioner's monthly income after other applicable deductions.

\$1,060.00	(gross monthly income)
<u>- \$187.00</u>	(standard deduction)
= \$873.00	(monthly income after other applicable deductions)

Finally, fifty percent of this total ($\$873.00 \times 50\% = \436.50) is subtracted from her total monthly shelter costs.

\$1,293.00	(total monthly shelter costs)
<u>- \$436.50</u>	(50% of monthly income after other deductions)
= \$856.50	(excess shelter deduction)

The resulting sum of \$856.50 represents the amount of Petitioner's excess shelter deduction. 7 C.F.R. §§ 273.9(d)(6)(ii), 273.10(e); Food Stamp Manual §§ 3420, 3610, 3617.

14.

Petitioner's net monthly income is calculated by subtracting the standard deduction and the excess shelter deduction from the assistance unit's gross income, as follows:

\$1,060.00	(gross monthly income)
- \$187.00	(standard deduction)
<u>- \$856.50</u>	(excess shelter deduction)
= \$16.50	(net monthly income)

In this case, Petitioner's net monthly income is \$16.50, which falls below the net income standard. Thus, Petitioner's household is eligible to receive Food Stamp benefits.

15.

The amount of Petitioner's food stamps allotment is determined by taking 30% of her net income (\$16.50 x 30% = \$4.95) and subtracting that amount from the maximum food stamps allotment for an assistance unit of five persons (\$793.00 - \$4.95 = \$788.05). 7 C.F.R. § 273.10(e)(2)(ii); Food Stamp Manual § 3610 and Appendix A; http://www.fns.usda.gov/snap/government/FY11_Allot_Deduct.htm.

16.

Because food stamps allotments are issued in whole dollar figures, Petitioner cannot be awarded benefits of \$788.05. The federal regulations governing the Food Stamp Program provide the following method for rounding:

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.

7 C.F.R. § 273.10(e)(2)(ii)(A). Petitioner's allotment, then, must be determined using one of the following equations:

\$793.00	(maximum food stamps allotment)
<u>- \$5.00</u>	(30 % of net monthly income, rounded up from \$4.95)
= \$788.00	(actual food stamps allotment)

$$\begin{array}{r} \$793.00 \quad (\text{maximum food stamps allotment}) \\ - \underline{\$4.95} \quad (30 \% \text{ of net monthly income}) \\ = \$788.05 \\ = \$788.00 \quad (\text{actual food stamps allotment, rounded down from } \$788.05) \end{array}$$

The results of these equations are consistent with the Basis of Coupon Issuance Table published in the Respondent's policy manual. Food Stamp Manual, Appendix A.

IV. Decision

In accordance with the foregoing Findings of Fact and Conclusions of Law, Respondent's action reducing Petitioner's Food Stamp Benefits from \$793.00 per month to \$788.00 per month for the certification period covering May through October 2013, was appropriate.

SO ORDERED THIS September 9, 2013.

Ana Kennedy
Administrative Law Judge