

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

[REDACTED], Petitioner,	:	
	:	
v.	:	Docket No.:
	:	OSAH-DFCS-FSP-[REDACTED]-69-Miller
	:	
DHS, FAMILY & CHILDREN SERVICES,	:	Agency Reference No.: [REDACTED]
Respondent.	:	

INITIAL DECISION

I. INTRODUCTION

This matter is the Petitioner's appeal of the Respondent's action reducing her benefits allotment under the Supplemental Nutrition Assistance Program (hereinafter "Food Stamps Program"). The evidentiary hearing took place on November 4, 2013. The Petitioner, [REDACTED], appeared *pro se*. Barbara Watkins, an error control specialist for the Respondent's Region 2, appeared as the Respondent's representative. For the reasons given below, the Respondent's action is **AFFIRMED**; however, the amount of the reduction is **MODIFIED**, and the Petitioner's food stamps allotment shall be reduced to \$21.00 per month for September 2013, \$22.00 for October 2013, and \$15.00 per month as of November 2013 and ongoing.

II. FINDINGS OF FACT

1.

The Petitioner is seventy-three years old and is a recipient of food stamps benefits. She is the only member of her household assistance unit. (Testimony of Barbara Watkins; Exhibit R-1.)

2.

On August 6, 2013, the Petitioner submitted an application to renew her food stamps benefits. At that time, the Respondent recalculated her food stamps allotment for the months of September 2013 and ongoing, based on information the Petitioner provided regarding her income and expenses. (Testimony of Ms. Watkins; Exhibit R-1.)

3.

As of August 2013, when her renewal application was submitted, the Petitioner had two sources of unearned income: \$1,068.00 per month in Social Security income and \$326.00 per month in "maintenance" payments received from her ex-husband.¹ The Petitioner had no sources of

¹According to the Petitioner's divorce decree, the maintenance payments are intended to cover her medical insurance premium. However, because the premium is not paid directly by her ex-husband, the full maintenance

earned income. Therefore, her gross monthly income totaled \$1,394.00. (Testimony of Petitioner and Ms. Watkins; Exhibits P-2, R-1, R-2.)

4.

Regarding expenses, the Petitioner reported that she paid \$770.00 per month in rent, plus utilities, and \$126.46 per month for a Medicare supplement insurance premium. (Testimony of Petitioner and Ms. Watkins; Exhibits R-1, R-21.)

5.

The amount of a food stamps allotment is based on the recipient's net income. To determine the Petitioner's net income, the Respondent subtracted all applicable deductions from her gross monthly income of \$1,394.00. (Testimony of Ms. Watkins.)

6.

After considering the Petitioner's expenses, the Respondent determined that she should be afforded three deductions: a standard deduction, an excess shelter deduction, and an excess medical deduction. In this case, because the Petitioner's excess medical deduction fluctuated in the months following her August 2013 renewal, she experienced similar fluctuations in her food stamps allotment.² Consequently, as of September 2013, her allotment decreased from \$149.00 to \$97.00 per month. It then increased slightly, to \$99.00, in October 2013, and decreased again, to \$19.00, for the month of November 2013.³ (Testimony of Ms. Watkins; Exhibits R-1, R-2, R-3, R-4, R-5, R-6, R-7.)

7.

The Petitioner timely appealed the Respondent's determination of her food stamps allotment. She believes she should receive \$149.00 per month in food stamps benefits for the months of September 2013 and ongoing. (Testimony of Petitioner; Exhibit R-3.)

8.

At the hearing, the evidence revealed that prior to her August 2013 renewal, the Petitioner had received \$149.00 per month in food stamps benefits. However, this allotment was erroneously awarded based on two errors in the Respondent's calculations. First, prior to the renewal, the

payment is considered income to the Petitioner. She is then afforded a medical deduction for the insurance premium expense. (Testimony of Petitioner and Ms. Watkins; Exhibits R-2, R-18.)

² From the evidence presented at the hearing, it is impossible to determine how the Respondent calculated the Petitioner's excess medical deduction at her August 2013 renewal.

³ The record is unclear, based on the documents submitted, regarding which of these allotment determinations the Petitioner has appealed. However, at the hearing, she expressed dissatisfaction with her allotments for all three months. Therefore, for purposes of this decision, it is presumed that she has appealed the allotment determinations for September, October, and November 2013.

Respondent failed to treat the \$326.00 per month that the Petitioner received from her ex-husband as income to her. At the same time, the Respondent afforded the Petitioner a medical deduction for the amount of her Medicare supplement premium. These dual errors resulted in a significant and erroneous understatement of the Petitioner's net income, which resulted in a significant and erroneous overpayment of food stamps benefits. (Testimony of Ms. Watkins; Exhibits R-3, R-4, R-5, R-6.)

9.

When the Petitioner submitted her renewal application in August 2013, the Respondent corrected its errors regarding the treatment of her maintenance income and insurance premium expense. However, it committed additional errors in its calculations of her excess medical deduction for the months of September, October, and November 2013. Consequently, Barbara Watkins, an error control specialist for the Respondent's Region 2, reviewed the Petitioner's case in its entirety prior to the hearing and recalculated her excess medical deduction based on the following verified medical expenses:

Ongoing Expenses:	\$126.46	(monthly Medicare supplement premium)
	<u>\$7.95</u>	(monthly prescription fee)
	\$134.41	(total ongoing monthly expenses)
One-Time Expenses: ⁴	\$75.23	(date of service September 17, 2012)
	\$68.82	(date of service January 17, 2013)
	\$68.82	(date of service April 17, 2013)
	<u>\$22.26</u>	(date of service May 28, 2013)
	\$235.13	(total one-time expenses)

Based on these expenses, Ms. Watkins applied the provisions of the Respondent's policy manual and determined that the Petitioner should have been afforded an excess medical deduction of \$119.00 per month, effective as of September 2013. (Testimony of Ms. Watkins; Exhibits R-8, R-9, R-10, R-11, R-12, R-13, R-14, R-18.)

10.

In addition to the excess medical deduction of \$119.00 per month, Ms. Watkins also afforded the Petitioner an excess shelter deduction of \$550.00 and a standard deduction of \$149.00. After subtracting the three applicable deductions, which totaled \$818.00, from the Petitioner's gross monthly income of \$1,394.00, Ms. Watkins arrived at a net income figure of \$576.00 per month. She then consulted the food stamps allotment table and determined that the Petitioner should have received food stamps benefits of \$27.00 per month, as of September 2013. However, at the hearing, the Petitioner testified that she had unintentionally misreported her rent, which is actually \$750.00 per month, rather than \$770.00. Correction of this error requires a further

⁴ The Petitioner also supplied documentation of certain other medical expenses. However, these additional expenses could not be applied to her excess medical deduction for the current certification period because they were incurred and paid during a prior period of food stamps eligibility. (Testimony of Ms. Watkins; Exhibits R-8, R-9, R-10, R-11, R-12, R-13, R-14, R-18 at 8.)

reduction of the Petitioner's monthly allotment. (Testimony of Petitioner and Ms. Watkins; Exhibit R-20.)

11.

Additionally, as of November 2013, the Petitioner's Medicare supplement premium increased by \$7.58, to \$134.04 per month. As a result, her excess medical deduction will increase by the same amount, to \$126.58, effective for the month of November 2013 and ongoing. (Testimony of Petitioner and Ms. Watkins; Exhibit R-21.)

III. CONCLUSIONS OF LAW

1.

This matter involves the proposed reduction of public assistance benefits. Therefore, the burden of proof is on the Respondent. Ga. Comp. R. & Regs. § 616-1-2-.07(1)(d). The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. § 616-1-2-.21(4).

A. Food Stamps Income Standards

2.

The Food Stamps Program is governed by the Food Stamp Act of 1977, 7 U.S.C. § 2011 *et seq.*, as amended; 7 C.F.R. § 271.1, *et seq.*; and the Economic Support Services Manual of the Georgia Department of Human Services at 3420 ("Food Stamps Manual"). In most cases, a household must meet financial eligibility requirements regarding both gross income and net income in order to qualify for assistance.

3.

The gross income eligibility standard is 130% of the federal poverty level. 7 C.F.R. § 273.9(a)(1)(i); Food Stamps Manual, § 3610-1. For an assistance unit of one person, the gross monthly income limit was \$1,211.00 in September 2013. This limit increased to \$1,245.00 as of October 2013. 7 C.F.R. § 273.9(a)(4); Food Stamps Manual § 3610-1 and Appendix A-2; www.fns.usda.gov/snap/government/FY13_Income_Standards.htm; www.fns.usda.gov/snap/government/FY14_Income_Standards.htm. However, because the Petitioner is elderly, her household is not subject to the gross income limit. 7 C.F.R. § 273.9(a); Food Stamps Manual § 3610-1. Instead, she is only required to meet the net income standard. *Id.*

4.

The net income limit is 100% of the federal poverty level. 7 C.F.R. § 273.9(a)(2)(i); Food Stamps Manual § 3610-1. For an assistance unit of one person, the net income limit was \$931.00 per month in September 2013. The net income limit, like the gross income limit, increased as of October 2013, to \$958.00 per month. 7 C.F.R. § 273.9(a)(4); Food Stamps Manual § 3610-1 and Appendix A-2; www.fns.usda.gov/snap/government/FY13_Income_Standards.htm;

[www.fns.usda.gov/snap/government/FY14 Income Standards.htm](http://www.fns.usda.gov/snap/government/FY14%20Income%20Standards.htm). As explained below, the Petitioner meets the net income eligibility standard.

B. Deductions From Gross Income

5.

To determine an assistance unit's net income, the 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 Stamps Manual, § 3611-1. In this case, the Petitioner was entitled to receive the standard deduction, the excess medical deduction, and the excess shelter deduction. 7 C.F.R. § 273.10(e)(1).

1. Earned Income Deduction

6.

The Petitioner has no earned income. Therefore, she is not entitled to the earned income deduction. 7 C.F.R. § 273.9(b)(2).

2. Standard Deduction

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 September 2013, the standard deduction for an assistance unit of between one and three people was \$149.00. The standard deduction increased to \$152.00 as of October 2013. Food Stamps Manual, § 3613-1.

3. Excess Medical Deduction

8.

To qualify for the excess medical deduction, an individual must be elderly or disabled and have medical expenses⁵ in excess of \$35.00 per month that are not paid by an insurance company or

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

someone who is not a member of the household. Here, the Petitioner meets the criteria for the excess medical deduction. 7 C.F.R. § 273.9(d)(3).

9.

As detailed in the Findings of Fact, above, the Petitioner supplied the Respondent with documentation of one-time medical expenses totaling \$235.13. To calculate the excess medical deduction, the Respondent prorates the Petitioner's one-time expenses over her one-year period of eligibility ($235.13 \div 12 = \$19.59$) and adds that amount to her ongoing monthly expenses.

10.

For the months of September and October 2013, the Petitioner's ongoing medical expenses were \$134.41 per month. Therefore, her total monthly medical expenditure for those months was \$154.00 ($\$19.59 + \$134.41 = \154.00). The first \$35.00 per month is then excluded ($\$154.00 - \$35.00 = \$119.00$), and the remainder, \$119.00, is the amount of the Petitioner's excess medical deduction for the months of September and October 2013. Food Stamps Manual § 3614.

11.

For the month of November 2013 and ongoing, the Petitioner's ongoing medical expenses increased to due to the increase in her Medicare supplement premium, as follows:

Ongoing Expenses:	\$134.04	(monthly Medicare supplement premium)
	<u>\$7.95</u>	(monthly prescription fee)
	\$141.99	(total ongoing monthly expenses)

When her prorated one-time expenses are added to this amount, the Petitioner's total monthly medical expenditure increases to \$161.58 ($\$19.59 + \$141.99 = \161.58). The first \$35.00 per month is then excluded ($\$161.58 - 35.00 = \126.58), leaving the Petitioner with an excess medical deduction of \$126.58 per month, effective as of November 2013 and ongoing. Food Stamps Manual § 3614.

4. Child Care Deduction

12.

A household assistance unit may receive a child care deduction for the full amount incurred or billed for dependent care, when necessary for a member to accept or continue employment, attend training or pursue education which is preparatory to employment, or to comply with employment and training requirements under the Temporary Assistance for Needy Families program. The Petitioner does not qualify for a child care deduction. Food Stamps Manual § 3615-1.

certain transportation costs, attendant care and health insurance premiums. Expenses associated with special diets are not allowable medical costs. 7 C.F.R. § 273.9(d)(3).

5. Child Support Deduction

13.

Petitioner does not pay child support. Therefore, she is ineligible for the child support deduction. 7 C.F.R. § 273.9(d)(5).

6. Excess Shelter Deduction

14.

The excess shelter deduction consists of “[m]onthly 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. Here, because the standard deduction increased as of October 2013 and the Petitioner’s excess medical deduction increased as of November 2013, it is necessary to calculate her excess shelter deduction separately based on three time frames: September 2013; October 2013; and November 2013 and ongoing. Food Stamps Manual § 3617.

15.

For the month of September 2013, the Petitioner’s excess shelter deduction is calculated as follows:

First, the Petitioner’s rent payment is added to the Heating/Cooling Standard Utility Allowance to determine her total monthly shelter costs.

\$750.00	(rent) ⁶
+ \$343.00	(standard utility allowance)
= \$1,093.00	(total monthly shelter costs)

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

\$1,394.00	(gross monthly income)
- \$149.00	(standard deduction)
- \$119.00	(excess medical deduction)
= \$1,126.00	(monthly income after other applicable deductions)

Finally, fifty percent of this total (\$1,126.00 x 50% = \$563.00) is subtracted from her total monthly shelter costs.

\$1,093.00	(total monthly shelter costs)
- \$563.00	(50% of monthly income after other deductions)
= \$530.00	(excess shelter deduction)

⁶ The Court has utilized the correct amount of the Petitioner’s rent, based on her testimony at the hearing.

The difference of \$530.00 represents the amount of the Petitioner's excess shelter deduction for the month of September 2013. 7 C.F.R. §§ 273.9(d)(6)(ii), 273.10(e); Food Stamps Manual §§ 3420, 3610, 3617.

16.

For the month of October 2013, the Petitioner's excess shelter deduction is calculated as follows:

First, as explained above, the Petitioner's total monthly shelter costs are \$1,093.00.

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

\$1,394.00	(gross monthly income)
- \$152.00	(standard deduction)
- \$119.00	(excess medical deduction)
= \$1,123.00	(monthly income after other applicable deductions)

Finally, fifty percent of this total ($\$1,123.00 \times 50\% = \561.50) is subtracted from her total monthly shelter costs.

\$1,093.00	(total monthly shelter costs)
- \$561.50	(50% of monthly income after other deductions)
= \$531.50	(excess shelter deduction)

The difference of \$531.50 represents the amount of the Petitioner's excess shelter deduction for the month of October 2013. 7 C.F.R. §§ 273.9(d)(6)(ii), 273.10(e); Food Stamps Manual §§ 3420, 3610, 3617.

17.

Effective for November 2013 and ongoing, the Petitioner's excess shelter deduction is calculated as follows:

First, as explained above, the Petitioner's total monthly shelter costs are \$1,093.00.

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

\$1,394.00	(gross monthly income)
- \$152.00	(standard deduction)
- \$126.58	(excess medical deduction)
= \$1,115.42	(monthly income after other applicable deductions)

Finally, fifty percent of this total ($\$1,115.42 \times 50\% = \557.71) is subtracted from her total monthly shelter costs.

\$1,093.00	(total monthly shelter costs)
<u>- \$557.71</u>	(50% of monthly income after other deductions)
= \$535.29	(excess shelter deduction)

The difference of \$535.29 represents the amount of the Petitioner's excess shelter deduction as of November 2013 and ongoing. 7 C.F.R. §§ 273.9(d)(6)(ii), 273.10(e); Food Stamps Manual §§ 3420, 3610, 3617.

C. Calculation of Net Income

18.

The Petitioner's net monthly income is calculated by subtracting all applicable deductions from the assistance unit's gross income. For the month of September 2013, the Petitioner's net monthly income was \$596.00, as follows:

\$1,394.00	(gross monthly income)
- \$149.00	(standard deduction)
- \$119.00	(excess medical deduction)
<u>- \$530.00</u>	(excess shelter deduction)
= \$596.00	(net monthly income)

For the month of October 2013, the Petitioner's net monthly income was \$591.50, as follows:

\$1,394.00	(gross monthly income)
- \$152.00	(standard deduction)
- \$119.00	(excess medical deduction)
<u>- \$531.50</u>	(excess shelter deduction)
= \$591.50	(net monthly income)

As of November 2013 and ongoing, the Petitioner's net monthly income is \$584.63, as follows:

\$1,394.00	(gross monthly income)
- \$152.00	(standard deduction)
- \$126.58	(excess medical deduction)
<u>- \$535.29</u>	(excess shelter deduction)
= \$580.13	(net monthly income)

The Petitioner's net income is used to determine her food stamps allotment. Food Stamps Manual §§ 3600, 3610.

D. Determination of Allotment

19.

The amount of the Petitioner's food stamps allotment is calculated by multiplying 30% of her net income and subtracting that amount from the maximum food stamps allotment for an assistance unit of one person. 7 C.F.R. § 273.10(e)(2)(ii); Food Stamps Manual § 3610. For the month of September 2013, 30% of the Petitioner's net income was \$178.80 ($\$596.00 \times 30\% = \178.80). For the month of October 2013, 30% of the Petitioner's net income was \$177.45 ($\$591.50 \times 30\% = \177.45). As of November 2013 and ongoing, 30% of her net income is \$174.04 ($\$580.13 \times 30\% = \174.04).

20.

For the months of September and October 2013, the maximum allotment for a household of one person was \$200.00. Food Stamps Manual Appendix A-2. Food stamps allotments are rounded down to the nearest dollar. 7 C.F.R. § 273.10(e)(2)(ii)(A); Food Stamps Manual Appendix A-2. Therefore, for September 2013, the correct amount of the Petitioner's food stamps allotment was \$21.00 ($\$200.00 - \$178.80 = \21.20, rounded down to \$21.00). The correct allotment for October 2013 was \$22.00 ($\$200.00 - \$177.45 = \22.55, rounded down to \$22.00).

21.

As of November 2013, the maximum food stamps allotment for a one-person assistance unit was reduced to \$189.00 per month. See American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115; www.fns.usda.gov/snap/government/updates/FY14_Allot_Deduct-2.htm. However, because the equation ($\$189.00 - \$175.39 = \$13.61$, rounded down to \$13.00) leads to a result that is less than the minimum allotment of \$15.00, the Petitioner is entitled to receive the minimum food stamps allotment of \$15.00 per month as of November 2013 and ongoing. Food Stamps Manual Appendix A-2; www.fns.usda.gov/snap/government/updates/FY14_Minimum_Allotments.htm.

IV. DECISION

In accordance with the foregoing Findings of Fact and Conclusions of Law, the Respondent decision to reduce the Petitioner's food stamps allotment is hereby **AFFIRMED**; however, the amount of the reduction is **MODIFIED**, and the Petitioner's food stamps allotment shall be reduced to \$21.00 per month for September 2013, \$22.00 for October 2013, and \$15.00 per month as of November 2013 and ongoing.

SO ORDERED, this _____ day of _____, 2013.

KRISTIN L. MILLER
Administrative Law Judge