



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary

August 11, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held August 9, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your SNAP benefits effective August 2011 by adding your husband to your assistance group and counting unearned income from unemployment compensation for him against your SNAP benefits.

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 Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility and benefit levels for SNAP benefits are based on current policy and regulations. Some of these regulations state that individuals who both live together and purchase and prepare their meals together must be included in the same SNAP assistance group. Individuals who are married and living together must be included in the same assistance group for SNAP regardless of whether they purchase and prepare their meals together. (West Virginia Income Maintenance Manual §9.1) When determining a monthly amount of income to count for the eligibility period, the Worker must consider the income which can be reasonably expected to be received in the certification period. (West Virginia Income Maintenance Manual §10.4.A)

The information submitted at your hearing supports that your husband lives in your household and that at the time of the Department's July 2011 action to add him to your case effective August 2011 he was receiving unemployment compensation benefits. The Department was correct to add your husband to your SNAP assistance group, and in counting unemployment compensation benefits for him in determining your household's future SNAP eligibility.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in adding your husband to your SNAP assistance group, and in counting your husband's unemployment compensation benefits as unearned income effective August 2011.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review /Tera Pendleton, [REDACTED] DHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-1443

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing for ----- . This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on August 9, 2011.

It should be noted that the Claimant's SNAP benefits have been continued pending the outcome of this hearing.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition Assistance Program (SNAP) is to provide an effective means of utilizing the nation's abundance of food "to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households." This is accomplished through the issuance of benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

-----, Claimant
Tera Pendleton, Department representative
Tammy Drumheller, Department witness

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The questions to be decided are whether the Department was correct in its decision to add the Claimant's husband to her SNAP assistance group, and whether the Department was correct in its decision to count unearned income for him from unemployment compensation in determining SNAP eligibility and benefit amount effective August 2011.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual § 9.1, and 10.4.A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case comments from Department's computer system dated from June 30, 2011 Through July 18, 2011
- D-2 Income screens from the Department's computer system dated August 8, 2011
- D-3 SNAP disbursement screen from Department's computer system
- D-4 Notification letter from Department to Claimant dated July 1, 2011
- D-5 West Virginia Income Maintenance Manual §9.1
- D-6 Unemployment Compensation payment information from Department's computer System
- D-7 Verification of earnings for Claimant's husband dated June 17, 2011
- D-8 Department of Motor Vehicle information from Department's computer system Dated March 29, 2011
- D-9 Narrative comments screen from Department's computer system dated April 6, 2011

Claimant's Exhibits:

- C-1 Letter from Claimant's mother dated August 9, 2011

VII. FINDINGS OF FACT:

- 1) The Claimant was actively receiving SNAP benefits in July 2011 when the Department determined that her husband was living in her household. The Department subsequently added the Claimant's husband to her SNAP assistance group in July 2011, effective August 2011, and counted unearned income for him from unemployment compensation in determining her household's continued eligibility for SNAP. This change caused a decrease in the Claimant's

SNAP benefits. The Department sent the Claimant a notification letter (D-4) on or about July 1, 2011 which included the following pertinent information:

ACTION: Your SNAP will decrease from \$952.00 to \$66.00 effective 08/01/11.

REASON: Your income has increased.

The following is the list of individuals who are eligible for this benefit.

Earned income has increased.

Your income has increased.

Gross Unearned Income.....1737.20.

- 2) The Department contends that it conducted an investigation into the household composition of the Claimant's home and determined that her husband, -----, lives in her household. The Department also contends that he was receiving unemployment compensation at the time of the action in the amount of eight hundred eight dollars (\$808.00) biweekly for a total of one thousand seven hundred thirty seven dollars and twenty cents (\$1737.20).
- 3) The Claimant disputes that her husband lives in her household, and disputes that he was receiving unemployment compensation at the time of the Department's action to count his unemployment compensation income against her household effective August 2011. The Claimant does not dispute the calculated amount of unemployment compensation, but states that her husband had gone to work for a short period during July 2011.
- 4) The Department presented evidence from its computer system (D-6) which shows that ----- applied for unemployment compensation on May 5, 2011, and listed the Claimant's residential address as his own. This information also shows that ----- received unemployment compensation checks in the amount of eight hundred eight dollars (\$808.00) biweekly from May 5, 2011, through June 12, 2011, but that the payments stopped briefly at that point, and he began receiving the payments again on July 31, 2011. This would coincide with the Claimant's report that her husband was employed for a short time during July 2011.
- 5) The Department also presented evidence in the form of records from -----' former employer, Hercules Painting Company. The company verified (D-7) that ----- began working there on June 1, 2010, and that his employment with the company stopped on October 18, 2010, due to lack of work. The evidence shows that during that timeframe ----- reported that he lived at the same residential address as the Claimant.
- 6) Additional evidence shows (D-8) that the Claimant and ----- jointly titled a vehicle with the Department of Motor Vehicles on March 29, 2011, utilizing the same address.

- 7) Additional evidence (D-9) shows that the Department documented in its computer system on March 7, 2011, that the Claimant and ----- were currently married and that a divorce filing was dismissed as the parties did not appear for the hearing.
- 8) The Claimant submitted a hand-written letter dated August 9, 2011, purported by her to be written by her mother. The letter states that the Claimant has been married to ----- for approximately seven (7) years, and that ----- does not consistently reside in their home. The author of the letter states, "In a week, two (2) to three (3) days would be an average commitment to his family." The author of the letter was not available for testimony.
- 9) The Claimant testified that she and ----- are married, but added that they have had a rocky relationship. She claims that ----- does not live with her. In an attempt to explain why she and ----- titled a vehicle together, she stated that last year she bought a car from "-----" and that ----- is making payments on the vehicle. She stated that the car was bought during the year 2010 and that she and ----- signed some sort of agreement with ----- regarding the transaction. She stated that her intentions were for ----- to pay for the vehicle and title it in his own name; however, it was titled in both their names since she had signed the agreement contract. She added that ----- does not have a driver's license. She could not give a timeframe to explain when she lived with ----- . She stated that she was living with ----- when the contract was signed to purchase the vehicle, but she could not explain when she lived with him during 2010. She also stated she does not know when the contract was signed. She stated that she tries to maintain a family unit with ----- because of the children. She stated that in April 2011 she "looked back" and recalled that ----- was gone every weekend. She stated that ----- does not have a separate address. She stated that he will come to her house two (2) to three (3) days per week, and added that he does not share well with her when he works.
- 10) The West Virginia Department of Health and Human Resources Income Maintenance Manual §9.1.A, provides that individuals who both live together and purchase and prepare meals together must be included in the same assistance group for SNAP. Additionally, this policy provides that when individuals are married and living together, they cannot be a separate assistance group regardless of whether they purchase and prepare meals together.
- 11) The West Virginia Department of Health and Human Resources Income Maintenance Manual §10.4, A, provides that the Worker must consider the income the household is reasonably expected to receive when determining the amount of income to count for the eligibility period.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that individuals who are married and live together must be included in the same assistance group for SNAP regardless of whether they purchase and prepare their meals together. Policy also provides that the Department must consider the income the household is reasonably expected to receive when determining the amount of income to count for the eligibility period.

- 2) The totality of the evidence supports that ----- lives with the Claimant and that they are married. ----- does not have a separate address, and utilizes the Claimant's address as his own for business purposes. The Claimant stated that he does not live with her, but conceded he is "at her home" two (2) to three (3) days per week. She could not provide testimony as to when ----- lived with her during 2011. Her testimony was inconsistent, as she made one statement regarding a reflection she made during the month of April 2011 in which she surmised that he had been gone "every weekend."
- 3) The Department's evidence supports that ----- was receiving unemployment compensation again on July 31, 2011, after having briefly stopped receiving it during July 2011, which supports that the employment mentioned by the Claimant for him in July 2011 had ended before August 2011. The Department correctly used his unemployment income in determining the household's August 2011 SNAP benefits as this income can be reasonably expected to continue into the certification period.
- 4) Based on the information provided during this hearing, the Department was correct in its decision to add ----- to the Claimant's SNAP case, and in counting his unemployment compensation income in determining eligibility for future SNAP benefits.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in adding ----- to the Claimant's SNAP case and in counting his unemployment compensation in determining eligibility for SNAP effective August 2011.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 12th Day of August, 2011.

**Cheryl Henson
State Hearing Officer**