



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 E. Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

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

December 19, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held December 8, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to establish a SNAP repayment claim against you.

In arriving at a decision, the State Hearings 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 for the SNAP program is based on current policy and regulations. These regulations provide that a group of individuals who live together, and for whom food is customarily purchased and prepared together must be included in the same SNAP Assistance Group (West Virginia Income Maintenance Manual § 9.1 A).

The information submitted at your hearing revealed that ----- was living in with you and your children in September 2011, while you reported to the DHHR that only you and your children were in your SNAP assistance group. As such, you were required to verify his income for your SNAP benefits.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to terminate your SNAP benefits because you failed to report -----'s earned income.

Sincerely,

Stephen M. Baisden
State Hearings Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Sheila Napier, WV DHHR, [REDACTED] County Office

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

-----,

Claimant,

v.

ACTION NO: 11-BOR-2300

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

Claimant.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on December 19, 2011 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 via videoconference, with Department representatives and Claimant appearing at the [REDACTED] County Office of the WV Department of Health and Human Resources (DHHR) in [REDACTED] WV, and the Hearing Officer appearing at the [REDACTED] County office of the WV DHHR in [REDACTED] WV, on December 8, 2011, on a timely appeal filed October 27, 2011.

II. PROGRAM PURPOSE:

The Program entitled the Supplemental Nutrition Assistance Program, or SNAP, is administered by the West Virginia Department of Health & Human Resources (DHHR.)

The purpose of the Supplemental Nutrition Assistance Program 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 EBT 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

Sheila Napier, WV DHHR, ██████████ County Office, Department's representative
Tammy Drumheller, Front-End Fraud Unit, Department's witness

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and member of the Board of Review.

All participants offering testimony were placed under oath.

IV. QUESTIONS TO BE DECIDED:

The question to be decided is whether or not the Department's proposal to terminate Claimant's SNAP benefits is correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual §9.1.A and §20.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Screen Print from RAPIDS Data-Exchange System, dated September 22, 2011
- D-2 Written statement from Claimant's Mother-in-Law, dated September 22, 2011
- D-3 WV Income Maintenance Manual Chapter 9, section 1.A.1.b(2)
- D-4 WV Income Maintenance Manual Chapter 10, section 4.A.1

VII. FINDINGS OF FACT:

- 1) In September, 2011, the Department received a telephone complaint that -----, the father of Claimant's children, was living in the home with Claimant and was working. Claimant was receiving SNAP benefits at this time and reported that the only persons in her SNAP assistance group (AG) were herself and her children. The complaint was forwarded to the Front-End Fraud Unit (FEFU) for investigation.
- 2) Department's witness Tammy Drumheller, the FEFU investigator for Boone County, WV, testified that she obtained verification that ----- was working, through a data exchange between the DHHR and the Department of Employment Programs (DEP). (Exhibit D-1.) This data exchange provided the name of -----'s employer and listed -----'s mailing address.

- 3) Department's witness testified that she went to the address provided by the data exchange and learned this was the home of -----'s mother. She submitted as evidence a written statement from -----'s mother, dated September 22, 2011. This statement reads as follows:

“I, -----, am -----'s mother. ----- and [Claimant] live in the apartment across the road. ----- had been staying with me, and he moved back in with [Claimant] around the end of August 2011.”

Department's witness stated that she requested verification of income for -----, but did not receive a response. She stated that the case closed due to a failure to verify income information.

- 4) Claimant testified that she and ----- do not live together. She testified that she did not know where he is staying. She added that she knew he was not working. She did not make a substantial rebuttal against the Department's testimony and evidence.
- 5) West Virginia Income Maintenance Manual, Chapter 9.1.A.1(b) states in pertinent part:

The following individuals who live together must be in the same AG, even if they do not purchase and prepare meals together:

...

- Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as that parent.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that a SNAP recipient may not receive SNAP benefits in a separate assistance group from his or her children if they live in the same household. Therefore if an unmarried couple live together and have common children, both parents must be included in the same SNAP assistance group.
- 2) Department's representative submitted evidence to indicate Claimant and -----, the father of her children, live together. She submitted a written statement from -----'s mother indicating that Claimant and he lived across a road from her in an apartment.
- 3) The preponderance of evidence shows that Claimant and ----- reside together. The Department acted correctly to add ----- to Claimant's SNAP assistance group based upon the investigation findings from the Front-End Fraud Unit, and to terminate Claimant's SNAP benefits because ----- did not verify his earned income.

IX. DECISION:

It is the decision of the State Hearing Officer to uphold the proposal of the Department to terminate Claimant's SNAP benefits because ----- did not verify the amount of his earned income.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision
Form IG-BR-29

ENTERED this 19th day of December 2011.

**Stephen M. Baisden
State Hearing Officer**