



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Rocco S. Fucillo
Cabinet Secretary

August 6, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held July 31, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your Supplemental Nutrition Assistance Program (SNAP) benefits and Aid to Families with Dependent Children (AFDC) Medicaid.

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 for SNAP and AFDC Medicaid is based on current policy and regulations. These regulations provide that married individuals residing in the same household must be included in the same SNAP assistance group and their incomes deemed to one another in determining Medicaid eligibility (WV Income Maintenance Manual § 9.1 A and 9.4 B).

The information submitted at your hearing was insufficient to establish ----- as residing in your household.

It is the decision of the State Hearing Officer to **Reverse** the action of the Department to terminate your SNAP benefits and AFDC Medicaid.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Michael Massaroni, Economic Service Supervisor

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1426-1427

**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 ----- held on July 31, 2012, by videoconference. This hearing was held in accordance with the provisions found in the West Virginia Department of Health and Human Resources' Common Chapters Manual, Chapter 700. This fair hearing was convened on a timely appeal, filed June 6, 2012.

II. PROGRAM PURPOSES:

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.

The Aid to Families with Dependent Children (AFDC, AFDCU for unemployed parents) Medicaid Program is designed to provide medical assistance to eligible families with children to age 18. These dependent children must be deprived of parental support due to the death, continued absence, incapacity, or unemployment of the parents. In addition, the family must meet financial eligibility criteria.

III. PARTICIPANTS:

-----, Claimant

-----, Witness for Claimant

-----, Witness for Claimant

-----, Witness for Claimant

Michael Massaroni, Economic Service Supervisor

Tammi Cooley, Fraud End Fraud Investigator

Presiding at the hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department was correct in terminating Claimant's SNAP benefits and AFDC Medicaid.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 9.1 A and 9.4 B

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Wage Verification for -----
- D-2 Department of Motor Vehicles Title Verification for a 2004 Volvo S40
- D-3 Department of Motor Vehicles Title Verification for a 1989 Porsche 944
- D-4 Department of Motor Vehicles License Renewal for -----
- D-5 Department of Motor Vehicles License Renewal Requirements
- D-6 Front End Fraud Unit Investigative Findings Report

Claimants' Exhibits:

- C-1 Correspondence from -----, OD, dated June 14, 2012
- C-2 United States Postal Service Change of Address Order dated February 17, 2012
- C-3 ----- County Family Court Summons dated April 18, 2012
- C-4 Approval Letter for the Johnson & Johnson Patient Assistance Program and Utility Bills

VII. FINDINGS OF FACT:

- 1) The Front End Fraud Unit (FEFU) received a referral in January 2012 alleging Claimant's husband, -----, was residing in her home. Tammi Cooley, FEFU investigator, investigated the allegations.
- 2) Ms. Cooley testified she verified with ----- employer that he reported his address as -----, WV, which is Claimant's address (D-1). ----- titled two (2) vehicles in February 2012 and renewed his driver's license using Claimant's address (D-2, D-3 and D-4). Ms. Cooley presented the Department of Motor Vehicles' requirements for license renewal showing proof of residency is required. Ms. Cooley stated ----- would have had to show documentation that his address was ----- in order to use that address to renew his driver's license (D-5).

Ms. Cooley stated she was unable to obtain witness statements from Claimant's neighbors to verify her household composition as there were several abandoned houses in the vicinity of Claimant's residence.

- 3) In May 2012, ----- and his income were added to Claimant's case. SNAP benefits and AFDC Medicaid were terminated due to excessive household income.
- 4) Claimant testified she and ----- are now divorced. The petition for divorce was filed in April 2012 (C-3). Claimant stated they have been separated since 2008, but resided together for two (2) weeks in May 2011 when the trailer in which she had been living in ----- was sold. After that two week period, ----- moved in with his parents -----, WV.

Claimant stated the Volvo was titled to her address because she used that vehicle. ----- did not use his parents' address to receive mail, but used Claimant's address. Claimant stated he paid her utility bills as she has no income, and mows the grass. He is in contact with her children. Claimant stated she has a good relationship with ----- . Claimant stated ----- parents had an emergency and were unable to attend the hearing to testify.

- 5) ----- testified his parents did not want him to receive mail at their house as he and his father share the same name, and it caused confusion. He requested his mail to start coming to his parents' address in February 2012 (C-2). ----- pays Claimant's utility bills, which are in his name but service address at Claimant's residence (C-4). ----- has not resided with Claimant since 2008, as indicated on the petition for divorce (C-3).
- 6) Ms. Cooley referenced a SNAP application from April 2008 that included ----- in the household, after the alleged March 2008 separation. Claimant stated during that time period, she and her children lived in an upstairs apartment and ----- lived below them in a basement apartment. Claimant stated she reported to the Department her living arrangements when she applied for SNAP in 2008, so she could not explain how ----- would have been included in her SNAP.

- 7) WV Income Maintenance Manual § 9.1 A(2) states [for SNAP]:

The following individuals who live together must be in the same AG [assistance group], even if they do not purchase and prepare meals together.

- Spouses are individuals who are married to each other under state law.

- 8) WV Income Maintenance Manual § 9.4 B states [for AFDC Medicaid]:

The non-excluded income of the following individuals must be counted when determining eligibility, but not when determining need:

- The legal stepparent

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that individuals who are married and residing together must be included in the same SNAP assistance group. For AFDC Medicaid, income is deemed from one spouse to the other, if residing in the same household.
- 2) The evidence presented by the Department indicated ----- used Claimant's mailing address. Claimant submitted evidence showing ----- had changed his mailing address to receive mail at his parents' house and utility bills showing the service address as Claimant's, with the billing address as ----- . Credible testimony presented held that ---- -- has resided with his parents since 2011, using Claimant's mailing address until February 2012. There was insufficient evidence to establish ----- as residing in Claimant's household.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the decision of the Department to terminate Claimant's SNAP benefits and AFDC Medicaid.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 6th day of August 2012

Kristi Logan
State Hearing Officer