



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General

Earl Ray Tomblin
Governor

Board of Review
1400 Virginia Street
Oak Hill, WV 25901

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 August 3, 2012. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your Supplemental Nutrition Assistance Program (SNAP) benefits, WV WORKS benefits, Aid to Dependent Families with Children (AFDC) Medicaid and Qualified Child 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 the SNAP, WV WORKS and Medicaid programs are based on current policy and regulations. These regulations state that to be eligible to receive benefits, the client must meet the eligibility requirement of residence and must live within the borders of West Virginia (WV Income Maintenance Manual § 8.2).

The information submitted at your hearing revealed that you are a resident of Virginia and ineligible to receive benefits in West Virginia.

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to terminate your SNAP, WV WORKS, AFDC and Qualified Child Medicaid benefits.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Beverly Ballengee, Family Support Supervisor

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 12-BOR-1548-1549-1550

**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 August 3, 2012, held 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 4, 2012.

It should be noted here that the Claimant's benefits under the SNAP, WV WORKS, AFDC Medicaid and Qualified Child Medicaid programs have continued pending a decision.

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 purpose of WV WORKS is to help economically dependent, at-risk families become self-supporting. It is a work-oriented, performance-based, time-limited program that emphasizes employment and personal responsibility. The goals of WV WORKS are to achieve more efficient and effective use of public assistance funds, reduce dependency on public programs by promoting self-sufficiency, and structure assistance to emphasize employment and personal responsibility.

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.

Qualified Child Medicaid provides coverage to children under the age of 19 whose family income is at or below 100% of the Federal Poverty Level and who are not eligible for SSI Related Medicaid.

III. PARTICIPANTS:

-----, Claimant

Beverly Ballengee, Family Support Supervisor
Junetta Mitchem, Family Support Specialist

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's proposal to terminate Claimant's SNAP, WV WORKS, AFDC Medicaid and Qualified Child Medicaid is correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 8.2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Scheduling Order
- D-2 Hearing/Grievance Request Notification
- D-3 Termination Notice dated May 31, 2012
- D-4 WV Income Maintenance Manual § 8.2 A
- D-5 ----- County, -- 2011 Real Estate Tax Ticket
- D-6 Department's Summary
- D-7 Electric Bill

Claimants' Exhibits:

- C-1 Correspondence from ----- dated November 8, 2011

VII. FINDINGS OF FACT:

- 1) Claimant had been receiving SNAP, WV WORKS, AFDC Medicaid for herself and Qualified Child Medicaid for her children. On April 30, 2012, Claimant reported to her caseworker that her Emergency Low Income Energy Assistance Program (LIEAP) voucher had been returned by Appalachian Electric Power (AEP) Company.
- 2) Beverly Ballengee, Family Support Supervisor, testified the reason for the returned LIEAP voucher was that Claimant was found to be a resident of [REDACTED] and AEP would not accept a West Virginia LIEAP payment for a ----- resident. Ms. Ballengee explained Claimant's mailing address is -----, WV, half of the city is in ----- and half of the city is in West Virginia.
- 3) The Department received a copy of the 2011 real estate taxes for the mobile home park where Claimant resides. The owner of the mobile home park, -----, pays real estate taxes for the mobile home park to ----- County, [REDACTED] (D-5).
- 4) Ms. Ballengee also presented a copy of Claimant's electric bill with AEP. The service address for Claimant's electric service is listed as ----- (D-7). Ms. Ballengee stated based on this information, it was determined that Claimant resided in ----- and was therefore not eligible to receive benefits in West Virginia.
- 5) Claimant testified the mobile home park where she lives is situated on the West Virginia/----- state line. Claimant stated the lot she rents is actually in West Virginia. Claimant stated she questioned AEP about the returned LIEAP voucher and was told it was returned to the Department based on her caseworker's request. Claimant also stated the electric poles run from -----, but AEP advised her that would not matter in regards to an acceptance of a LIEAP voucher. Claimant stated the address of ----- is the main address to the mobile home park.

Claimant stated another caseworker had conducted a home visit to her residence in November 2011 and verified that her lot in the mobile home park was located in West Virginia. Her landlord also provided a statement regarding the location of the mobile home park in November 2011, which reads (C-1):

My name is ----- – owner of the mobile home park in which [Claimant] pays lot rent for Lot #2. The only driveway that enters into the park is on the -- side of the sign that borders the -- & WVa side. Lot # 1, 2 & 3 sits on the WVa side, but my property survey papers are to the fence line & considered --. I pay my property taxes for my mobile home park at the -- ---- County Courthouse.

- 6) WV Income Maintenance Manual § 8.2 states (for all programs):

To be eligible to receive benefits, the client must meet the eligibility requirement of residence.

The client must live within the borders of West Virginia. Intent to remain permanently in West Virginia is not a requirement, although the client must reside in the State for purposes other than vacation. A time limit cannot be set for how long the client must live in West Virginia. The client cannot be required to maintain a permanent or fixed dwelling.

An individual remains a resident of the former state until he arrives in West Virginia with the intention of remaining indefinitely. Therefore, intent to establish or abandon residency must be known before the state of residence is determined.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that to receive benefits, the individual must live within the borders of West Virginia.
- 2) The evidence submitted indicated Claimant resides in -----. The property tax of the mobile home park where Claimant resides is paid to ----- and the service address of her electricity is in -----. Claimant failed to provide evidence to show her actual residence is within West Virginia's borders. Claimant is therefore ineligible to receive SNAP, WV WORKS and Medicaid in West Virginia.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to terminate Claimant's SNAP, WV WORKS, AFDC and Qualified Child Medicaid benefits.

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