



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
4190 Washington Street, West  
Charleston, West Virginia 25313  
(304) 746-2360, ext. 2227

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

June 17, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NOS.: 15-BOR-2198 (SNAP) and 15-BOR-2199 (Medicaid)

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Donna L. Toler  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Christina Brown, Family Support Specialist

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

██████████,

**Appellant,**

v.

**Action Numbers: 15-BOR-2198 (SNAP)  
15-BOR-2199 (Medicaid)**

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

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**INTRODUCTION**

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on June 16, 2015, on an appeal filed June 3, 2015.

The matter before the Hearing Officer arises from the decision by the Respondent to decrease the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits effective April 1, 2015, and to terminate the Appellant's children's Medicaid benefits effective April 1, 2015.

At the hearing, the Respondent appeared by Christina Brown, Family Support Specialist. Appearing as a witness for the Respondent was Eugenia Bukovinsky, Family Support Specialist. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Case Comments computer screen print, dated January 28, 2015 through March 20, 2015
- D-2 Correspondence from DHHR ██████████ to Appellant, dated March 17, 2015
- D-3 Case Comments computer screen print, dated March 26, 2015 through May 1, 2015
- D-4 Correspondence from DHHR ██████████ to Appellant, dated April 7, 2015
- D-5 Case Benefit Summary computer screen print, dated September 7, 2014 through June 7, 2015
- D-6 SNAP Individual Participation Summary computer screen print for ██████████, dated November 2014 through June 2015; Medicaid Individual Participation

- Summary computer screen print for [REDACTED], dated January 2015 through June 2015; SNAP Individual Participation computer screen print for [REDACTED], dated January 2015 through June 2015; and Medicaid Individual Participation Summary for April 2015 through June 2015
- D-7 Correspondence from DHHR [REDACTED] to Appellant, dated March 17, 2015
  - D-8 Client Notices Summary computer screen print, dated March 26, 2015 through April 26, 2015
  - D-9 Notice of Decision, dated April 7, 2015
  - D-10 Correspondence from DHHR [REDACTED] to Appellant, dated May 28, 2015
  - D-11 West Virginia Income Maintenance Manual Policy §1.4 (excerpts)

**Appellant's Exhibits:**

- A-1 Fair Hearing Request form, dated-stamped received on April 6, 2015
- A-2 Hand-Written Timeline of Events, emphasis requested for February 5 and 17, 2015

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

**FINDINGS OF FACT**

- 1) The Appellant is a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) The Appellant's children [REDACTED] and [REDACTED] are Medicaid recipients. (Exhibit D-6)
- 3) The Appellant is the primary custodial parent of [REDACTED] and [REDACTED]. The children's biological father has visitation custody of the children on weekends.
- 4) On March 17, 2015, the Department mailed notice to the Appellant that her SNAP benefits were terminated effective March 31, 2015, for failure to complete an eligibility redetermination. (Exhibit D-2)
- 5) On March 17, 2015, the Department mailed notice to the Appellant that her son, [REDACTED] Medicaid benefits were being terminated effective 3/31/2015 for failure to complete an eligibility redetermination. (Exhibit D-2)
- 6) On March 17, 2015, SNAP benefits and Medicaid benefits were approved for the Appellant's minor sons, [REDACTED] and [REDACTED] in a separate Assistance Group (AG). The benefits were approved effective April 1, 2015 through April 30, 2015. (Exhibit D-6)

- 7) ■ and ■ received children's Medicaid benefits without interruption from January 2015 through June 2015. (Exhibit D-6)
- 8) On March 19, 2015, the Appellant returned her SNAP eligibility redetermination form to the Department. (Exhibit D-1)
- 9) On March 26, 2015, the Appellant's SNAP redetermination form was processed and SNAP benefits were approved. (Exhibit D-3)
- 10) The Department failed to provide the Appellant notice that her that her SNAP benefits had been approved, nor the amount of benefit approval. (Exhibit D-8)
- 11) On April 6, 2015, a children's Medicaid redetermination form was entered into the Department's computer system. Medicaid was approved for the Appellant's children in her AG effective May 1, 2015. (Exhibit D-3)
- 12) On April 7, 2015, notice was mailed to the Appellant that her SNAP benefits were reduced from \$704 to \$533 per month effective April 1, 2015, because her children ■ and ■ had been removed from her Assistance Group. (Exhibit D-4)
- 13) On April 7, 2015, notice was mailed to the Appellant that her SNAP benefits were increased from \$533 to \$784 effective May 1, 2015, and that her children ■ and ■ were included in her Assistance Group. (Exhibit D-9)

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual §1.4.S.3, outlines policy regarding SNAP redeterminations. A SNAP redetermination is defined as a reapplication for benefits. Under no circumstances are benefits continued past the month of redetermination, unless a redetermination is completed and the client is found eligible. Clients who fail to complete the redetermination by the established deadline lose the right to uninterrupted benefits.

West Virginia Income Maintenance Manual §9.1.A, lists the SNAP eligibility determination groups. The SNAP Assistance Group (AG) must include all eligible individuals who both live together and purchase and prepare their meals together. **An individual cannot be a member of more than one SNAP AG in any month.** Children under the age of 22 who are living with a parent must be in the same AG as that parent. There is no required maximum/minimum amount of time the child must spend with a parent for the child to be included in the SNAP AG. If no one is receiving any SNAP benefits from the Department for the child, it is assumed that the living arrangements are not questionable and the child is added to the SNAP AG that wishes to add him. If the child is already listed in another SNAP AG or the other parent wishes to add the child to his SNAP AG, the parents must agree as to where the child "lives" and, ultimately, to which SNAP AG he is added. Where the child receives the majority of his meals, or the percentage of custody must not be the determining factor in which parent receives SNAP for the child.

West Virginia Income Maintenance Manual §6.2.C.1.a, outlines information which must be included in a notice identified as a DFA-NL-A. For approvals of SNAP benefits, the notice must include the month of approval, the amount of the benefit, pro-rated and ongoing, the length of the certification period, the reason for the approval, the Manual section on which the decision is based and any other action taken. If retroactive benefits are being issued, the amount of these benefits must be noted with an explanation.

## DISCUSSION

In March 2015, the Appellant was due for a redetermination of her SNAP benefits for her AG and Medicaid benefits for her son ■■■. The Appellant did not return the redetermination by the due date and notice was mailed to her on March 17, 2015, that her SNAP benefits and ■■■ Medicaid benefits were terminated effective April 1, 2015. On that same date, a separate Assistance Group (AG) applied for SNAP and Medicaid benefits for ■■■ and ■■■. As a result, ■■■ and ■■■ were approved for SNAP and Medicaid benefits in the other AG for the month of April 2015.

In April 2015, the Department took corrective action to return the ■■■ and ■■■ to the Appellant's AG. As a result, SNAP and Medicaid were approved for the children in the Appellant's AG beginning in May 2015.

The Appellant's SNAP benefits and ■■■ Medicaid were terminated for failure to complete redeterminations. Redeterminations are considered re-applications for benefits and SNAP policy does not permit the continuation of benefits for any reason unless the redetermination is completed and the individual found eligible. Between the times the Appellant's benefits were closed for failure to complete a redetermination, and when she re-applied for benefits, the biological father of ■■■ and ■■■ applied for SNAP and Medicaid benefits in his household.

Policy permits either parent to apply for SNAP benefits on behalf of their children regardless of the amount of time the children spend with that parent. There is no special consideration given to the parent who has custody of the children a majority of the time. In the case at hand, the biological father had the right, by policy, to apply for and receive SNAP benefits for his children because they were not receiving SNAP benefits in the Appellant's case at the time he applied. In situations where both parents are claiming a right to the SNAP benefits, the parties must come to an agreement on who will receive benefits on behalf of the children. There was no indication that such an agreement had been reached by the parties. However, because the children's biological father has not filed a grievance to add the children back into his AG, it is appropriate that they continue to receive benefits in the Appellant's AG.

The Department erred by not providing the Appellant proper notice of its actions when it approved her AG for SNAP benefits on March 26, 2015. Because of its error, the Appellant did not receive timely notice that the Department removed her children from her SNAP and Medicaid Assistance Groups when they were added to their father's AG. However, because policy does not permit the issuance of benefits to a member in more than one AG in a month, the Department cannot issue additional benefits to the Appellant for ■■■ and ■■■ because they already received those benefits in the month of April in another AG.

The children both received medical benefits for the month of April 2015, and had no interruption in Medicaid coverage. There is no additional relief available to the Appellant through the Board of Review.

### **CONCLUSIONS OF LAW**

- 1) Policy permits either parent to apply for and receive SNAP benefits for their children in shared custody/visitation arrangements regardless of where the children spend a majority of their time.
- 2) Policy requires the Department to provide applicants notice when they are approved for benefits. The Department failed to provide Appellant proper notice of approval of her SNAP benefits.
- 3) Although the Department erred by not providing the Appellant with proper notice of SNAP approval, policy does not permit the issuance of benefits for an AG member in more than one SNAP AG in a given month.
- 4) The children were active Medicaid recipients for the month of April 2015, and had no loss of coverage.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Department's decision to decrease the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits from \$704 to \$533 for the month of April 2015.

**ENTERED this \_\_\_\_ Day of June 2015.**

---

**Donna L. Toler**  
**State Hearing Officer**