



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

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

September 25, 2015



RE: [REDACTED] v. WV DHHR
ACTION NOS.: 15-BOR-2713 (SCA)
15-BOR-2714 (SNAP)

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,

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

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

cc: Jennifer Fischer, Economic Service Supervisor

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

██████████,

Appellant,

v.

**ACTION NO.: 15-BOR-2713 (SCA)
15-BOR-2714 (SNAP)**

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on September 23, 2015, on an appeal filed July 31, 2015.

The matter before the Hearing Officer arises from the August 3, 2015 decision by the Respondent to deny the Appellant's applications for the School Clothing Allowance (SCA) Program and the Supplemental Nutritional Assistance Program (SNAP).

At the hearing, the Respondent appeared by Representative Jennifer Fischer of the WV DHHR, ██████████ County Office. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was her husband ██████████. All participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 SNAP Denial Letter from Department to Appellant dated August 3, 2015
- D-2 SCA Denial Letter from Department to Appellant dated August 3, 2015
- D-3 SNAP Application form dated July 15, 2015, first page only
- D-4 SCA Application form dated July 30, 2015, first page only
- D-5 Screen print from Appellant's case record indicating her husband's earned income
- D-6 Screen print from Appellant's case record indicating household unearned income
- D-7 Paycheck stub from employer of Appellant's husband, dated June 19, 2015
- D-8 Paycheck stub from employer of Appellant's husband, dated July 2, 2015
- D-9 Paycheck stub from employer of Appellant's husband, dated July 17, 2015
- D-10 WV DHHR Income Maintenance Manual (IMM), Chapter 10, Appendix A
- D-11 WV DHHR IMM, Chapter 9, §9.1.A.1.b(2)

Appellant's Exhibits:

None

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) On July 16, 2015, the Appellant applied for SNAP benefits (Exhibit D-3). The Department denied her application due to excessive income (Exhibit D-1).
- 2) On July 30, 2015, the Appellant applied for the School Clothing Allowance (SCA) program (Exhibit D-4). On her SCA application, she listed her household as consisting of herself, her five children and her spouse. On the application form, she listed her spouse as "separated husband." The Department denied her application due to excessive income (Exhibit D-2).
- 3) The Appellant requested a fair hearing to protest both of these denials, arguing that her husband was not living in her household in July 2015.

APPLICABLE POLICY

WV Income Maintenance Manual (IMM), Chapter 9, §9.1.A.1.b(2) states that individuals or groups of individuals who live with others but customarily purchase and prepare their meals separately may receive their SNAP benefits in separate assistance groups (AGs). However, legal spouses must be included in the same assistance group even if they do not purchase or prepare their meals together.

WV IMM, Chapter 15, Appendix C reads as follows regarding the School Clothing Allowance eligibility group determinations, "The policy for Eligibility Determination Groups is the same as WV WORKS in Section 9.21."

WV IMM, Chapter 9, §9.21.A.1 reads as follows regarding WV WORKS assistance groups:

The following individuals are required to be included:

- All minor, dependent, blood-related and adoptive siblings who live in the same household and are otherwise eligible. For this purpose only, otherwise eligible means living with a specified relative.
- The parent(s) of the child(ren) identified above when the parent(s) lives with the child(ren) . . .

DISCUSSION

The Appellant requested a fair hearing to address the denial of her applications for SNAP and the School Clothing Allowance (SCA) program. She testified that her husband had not lived with her since January or February 2014. She stated he came to the home to see his children on the weekends, but he did not spend the nights at her home. She testified she “did not know where he is staying.”

The Appellant’s spouse testified that the paycheck stubs submitted as part of the July 2015 applications for SNAP and SCA did not reflect the true amount of his pay. He stated that he works in the heating-ventilation-air conditioning (HVAC) industry, and July is his busiest month. He stated that the pay he received in July for overtime, on-call pay and sales commission do not occur every month.

The Department’s representative pointed out on the SCA application (Exhibit D-4) that the Appellant listed her spouse as a member of her household. She added that the Appellant had reported her husband in her household until a review in June 2015. On this review, the Appellant reported her husband had a new job and his earnings made the household ineligible for SNAP. In July 2015, she reapplied for SNAP and reported her husband was not living in her home. The Department’s representative testified that the husband was not listed on the SNAP application, but the Appellant had reported the spouse worked away from home during the week and came home on the weekends.

Although the Appellant’s husband raised questions about the amount of overtime, on-call and commission pay he received regularly, the calculation of his gross earnings is not the issue of this decision. The central issue of this decision is the household composition of the Appellant’s home.

In July 2015, the Appellant told the Department her husband worked away from home but came home on the weekends. Also, the Appellant listed her husband as living in her home on an SCA application. Using the best information available at that time, the Department was correct to include the Appellant’s spouse and his income in determining that she was not eligible for SNAP or SCA.

CONCLUSIONS OF LAW

- 1) The Department was correct to deny the Appellant’s application for SNAP benefits based upon excessive earned and unearned income in the household, pursuant to WV IMM Chapter 9, §9.1.A.1.b(2).
- 2) The Department was correct to deny the Appellant’s application for the School Clothing Allowance (SCA) program based upon excessive earned and unearned income in the household, pursuant to WV IMM Chapter 9, §9.21.A.1 and Chapter 15, Appendix C.

DECISION

It is the decision of the state Hearing Officer to **uphold** the Department's decision to deny the Appellant's application for SNAP, and to **uphold** the Department's decision to deny the Appellant's application for the School Clothing Allowance program.

ENTERED this 25th Day of September 2015.

Stephen M. Baisden
State Hearing Officer