



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
150 Maplewood Avenue
Lewisburg, WV 24901

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

June 6, 2007

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 22, 2007. Your hearing request was based on the Department of Health and Human Resources' action to combine the benefits of two cases under the WV WORKS and Food Stamp Programs.

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 WV WORKS and Food Stamp Programs are based on current policy and regulations. Some of these regulations state as follows: The following individuals are required to be included in the WV WORKS Assistance Group - all minor, dependent, blood-related and adoptive siblings who live in the same household and are otherwise eligible and the parents of the children identified above when the parents live with the children. In addition, food stamp policy stipulates that 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. (Sections 9.1A & 9.21A of the West Virginia Income Maintenance Manual)

The information which was submitted at your hearing revealed that the Department acted correctly in combining the two cases.

It is the decision of the State Hearing Officer to uphold the action of the Department to combine the benefits of two cases under the WV WORKS and Food Stamp Programs.

Sincerely,

Margaret M. Mann
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Gayla Adkins, DHHR

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

_____,
Claimant,

v. Action Numbers: 07-BOR-1040 & 1041

**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 concluded on May 22, 2007 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 on May 22, 2007 on a timely appeal, filed April 2, 2007.

It should be noted here that the Claimant's benefits have been continued pending the hearing decision.

II. PROGRAM PURPOSE:

The Programs entitled WV WORKS & Food Stamp are set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of WV Works is to provide assistance to needy families with children so they can be cared for in their own home, reduce dependency by promoting job preparation, work and marriage.

WV Works will expect and assist parents and caretaker-relatives in at-risk families to support their dependent children. Every parent who receives cash assistance has a responsibility to participate in an activity to help prepare for, obtain and maintain gainful employment. WV Works will promote the value and the capabilities of individuals.

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 the assistance programs to emphasize employment and personal responsibility.

The purpose of the Food Stamp 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 food coupons to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

_____, Claimant
Claimant's Witness:
_____ (By Telephone)

Gayla Adkins, FSS, Department Hearing Representative
Department's Witnesses:
Karen Combs, Family Support Specialist, DHHR
Carol Jackson, Child Protective Service Worker, DHHR

Presiding at the Hearing was Margaret M. Mann, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Department is correct in the decision to combine the cases of the Claimant and _____ as they are residing in the same home and have a common child.

V. APPLICABLE POLICY:

Sections 9.1A and 9.21A of the West Virginia Income Maintenance Manual
7 CFR 273.1

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification Letter dated 03/30/2007
- D-2 Form IG-BR-29 Hearing/Grievance Record Information
- D-3 Hearing Appointment Notice
- D-4 Case Comments 02/28/2007 through 05/18/2007
- D-5 Section 9.21 of the West Virginia Income Maintenance Manual
- D-6 Section 10.24 of the West Virginia Income Maintenance Manual
- D-7 Department's Summary

VII. FINDINGS OF FACT:

- 1) The Claimant, [REDACTED] has been a recipient of WV WORKS for 33 months. [REDACTED] has been a recipient of WV WORKS for 24 months. They have a common child. There are two children, [REDACTED] who had been with [REDACTED] and [REDACTED] who had been with [REDACTED]
- 2) On 03/29/2007 the Department received a report that the Claimant and [REDACTED] were living in the same household. On this same date, the case was discussed with two CPS workers who confirmed that the Claimant & [REDACTED] do live in the same home. [REDACTED] was added to the Claimant's case and her case was closed 03/29/2007. Both parents are currently exempt from work requirements.
- 3) Case comments dated 03/29/2007 read in part that received reports from CPS and others that [REDACTED] and [REDACTED] live in the same home. Combined their cases as directed by supervisor and CSM. (Exhibit D-4)
- 4) A notice was sent to the Claimant dated 03/30/2007. It reads in part: Your WV WORKS will increase from \$271.00 to \$346.00 effective 05/01/2007. Your Food Stamps will increase from \$284.00 to \$518.00 effective 05/01/2007. Reason (for both programs): The number of people receiving this benefit has increased. (Exhibit D-1) A hearing was requested on 04/02/2007 as the Claimant denied they were living together.
- 5) Testimony from the Department's Hearing Representative revealed that Social Services records show home visits have been completed by CPS workers on the following dates with [REDACTED] and [REDACTED] present in the same home: 02/27/2007 CPS worker CJ; 03/27/2007 CPS worker CJ; 04/04/2007 CPS worker CJ; 04/13/2007 CPS worker CJ; 04/23/2007 CPS worker MS; 04/24/2007 CPS worker MS; 04/24/2007 CPS workers CJ & MS and 05/14/2007 CPS worker CJ with FSS worker KC.
- 6) Testimony from CPS worker, CJ, revealed that the dates listed are true and accurate. On at least two occasions, she believes 05/14 and 03/27, when she came to the trailer, the Claimant was only wearing boxer shorts and had to get dressed. The clothes were in the trailer. This is a trailer on _____ Road in _____.
- 7) Testimony from FSS, KC, revealed that she did visit the home on the date listed and the information was true and accurate.
- 8) Testimony from [REDACTED] revealed he is the legal guardian of [REDACTED]
- 9) Testimony from [REDACTED] revealed that the CPS worker did not give notice prior to visiting the home. [REDACTED] was in the home at almost every home visit and the reason was he was there is that they are a family. She asked him to be there because the case was about [REDACTED] [REDACTED] wanted to know the information first hand. The day [REDACTED] was in his boxers was because he was helping care for the children because she was sick. [REDACTED] is trying to get to know his own child. Since [REDACTED] has been in the home, the law has been called 10 – 15 times. When he was across the street, the law has been called 2 - 5 times. Since he has moved in, the environment has helped the kids. It has not helped [REDACTED] and [REDACTED] because they have domestic disputes. They are participating in family counseling. She thinks they could resolve their problems 80% of the time if people would leave them alone.

- 10) The CPS worker noted that they do not have to give prior notice when checking on a child for an open CPS. To her knowledge, there were only two times she visited the home without prior notice.
- 11) Section 9.21A of the West Virginia Income Maintenance Manual reads in part that the following individuals are required to be included in the WV WORKS Assistance Group (AG). All minor, dependent, blood-related and adoptive siblings who live in the same household and are otherwise eligible. The parent(s) of the child(ren) identified above when the parent(s) lives with the child(ren). Note: When an individual is required to be in two or more AGs, the AGs must be combined.
- 12) Section 9.1A of the West Virginia Income Maintenance Manual reads in part that individuals or groups of individuals living with others, but who customarily purchase food and prepare meals separately, are a food stamp AG. Exception: 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 requires that the following individuals be in the same WV WORKS AG: All minor, dependent, blood-related and adoptive siblings who live in the same household and are otherwise eligible and the parents of the children identified above when the parents live with the children. It is noted the when an individual is required to be in two or more AGs, the AGs must be combined.
- 2) Food stamp policy stipulates that 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.
- 3) The testimony and evidence presented at the hearing shows that [REDACTED] and the children are residing in the same home. Therefore, they must be in the same case.
- 4) The action to combine the cases is valid.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is upheld in the decision to combine the cases.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 6th Day of June, 2007.

**Margaret M. Mann
State Hearing Officer**