



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P.O. Box 970
Danville, WV 25053

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 6, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held January 12, 2007. Your hearing request was based on the Department of Health and Human Resources' action to terminate your WV Works Cash Assistance and Food Stamp benefits.

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 WV Works Cash Assistance and the Food Stamp Program is based on current policy and regulations. Some of these regulations state as follows: For the Food Stamp Program, natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same assistance group as that parent. (WV Income Maintenance Manual Section 9.1.A.1.(2)). For WV Works, an individual who is added to an existing AG is treated as an applicant. (WV Income Maintenance Manual Section 2.17.3) For WV Works, parents of all minor, dependent, blood-related and adoptive siblings who live in the same household must be included in the same assistance group. (WV Income Maintenance Manual Section 9.21.A.1) Orientation is part of the application process. Each adult in the WV Works AG must receive orientation to the Program. Attending a WV Works orientation and signing the OFA-WVW-4 are eligibility requirements, so eligibility may not be established until these are completed. (WV Income Maintenance Manual Section 1.24U)

The information which was submitted at your hearing revealed that your father was living with you at the time of the "neighborhood check", however, the Department did not show convincing evidence that your boyfriend was residing with you.

It is the decision of the State Hearing Officer to **uphold** the action of the Department to terminate your Food Stamps and **reverse** their decision to terminate your WV Works Cash Assistance.

Sincerely,

Cheryl McKinney
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Pamela Randolph, [REDACTED] DHHR
Judy Bell, [REDACTED] DHHR

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

_____,

Claimant,

v.

**Action Number: 06-BOR-3454
06-BOR-3455**

**West _____ 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 January 12, 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 January 12, 2007 on a timely appeal, filed November 29, 2006.

II. PROGRAM PURPOSE:

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

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

The Program entitled West Virginia Works is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health and Human Resources.

WV Works was created by Senate Bill 140, Article 9 of the West Virginia Code and the Temporary Assistance to needy Families Block Grant, Personal Responsibility and Work Opportunity Reconciliation Act of 1996. 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. The goals of WV Works are to achieve more efficient and effective use of public assistance funds, reduce dependence on public programs by promoting self-sufficiency and structure the assistance programs to emphasize employment and personal responsibility.

III. PARTICIPANTS:

_____, Claimant
_____, father and witness #1 – participated by phone
Pamela Randolph, WVW Family Support Specialist, _____ DHHR
Andrew Pettit, Investigator-Verification Specialist, _____ DHHR
_____ witness #2 – participated by phone

Presiding at the hearing was Cheryl McKinney, 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 their decision to terminate WV Works Cash Assistance due to absent parent living in the home, and to terminate claimant's food stamp benefits due to Claimant's father living in her household.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 2.17.3
WV Income Maintenance Manual Section 1.25E
WV Income Maintenance Manual Section 1.25U
WV Income Maintenance Manual Section 9.1A.1.(2)
WV Income Maintenance Manual Section 9.21.A.1

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing Request Summary
- D-2 Notification letter dated 12-01-06 (4 pages)
- D-3 Copy of WV Income Maintenance Manual Section 9.1 (9 pages)
- D-4 Notification letter dated 12-04-06 (2 pages)
- D-5 WV Income Maintenance Manual Section 9.21
- D-6 WV Income Maintenance Manual Section 1.25 (8 pages)
- D-7 Copy of written statement from _____ signed 11-15-06 (2 pages)
- D-8 Copy of written statement from _____ signed 1-12-07 (4 pages)
- D-9 Copy of various Rapids screens and tax records

Claimant's Exhibits

None

VII. FINDINGS OF FACT:

- 1) The Claimant resides at [REDACTED]. The Department received information from their Verification Specialist during the month of November 2006 indicating he had verified during a "neighborhood check" the Claimant's father, [REDACTED], was living at [REDACTED] with her. The Verification Specialist also provided the Department with information indicating [REDACTED], father of one of the Claimant's children, was also living in the home.
- 2) The Department took action to evaluate the Claimant's eligibility for WV Works Cash Assistance and Food Stamps based on the reported changes in household composition. The Department sent the Claimant a notification letter dated November 17, 2006 informing her that her WV Works Cash Assistance would decrease from \$340.00 to \$262.00 effective December 1, 2006 because her child's father was living in her home and had not completed the eligibility requirements, and her Food Stamp benefits would stop after November 2006 because the Claimant's father was living in her household.
- 3) The Department presented a written statement (D-7) completed November 15, 2006 by Witness #2. In this statement, he indicated he lives across the street from the Claimant and has lived there for thirty one (31) years. He stated that the Claimant and her father moved in at the [REDACTED] address about five (5) years ago together. He stated a boy about seven (7) or eight (8) years old also lives there and he sees him get off the bus. He also stated he sees a man there cutting grass and he thinks it may be a boyfriend, as he sees him and the Claimant go in and out, driving a blue car with white fenders. He does not know the man's name. He stated he only knows the family when he sees them, and visited the Claimant's father there once about a year ago. He indicated he did not know when the boyfriend moved in. On testimony by phone during the hearing, he indicated he remembered the interview with the Verification Specialist and verified the statement was an accurate documentation of his comments.
- 4) The Claimant's father who is also witness #1 testified by phone during the hearing that he lives at [REDACTED]. When questioned as to how long he has lived there he was unsure, and indicated he had lived there "on and off". He stated this last time he has been there about one (1) year or one and one-half 1 ½ years. He testified he owns both the house on [REDACTED] and the house on [REDACTED] where the Claimant lives. He stated he receives most of his mail at the [REDACTED] address, and has vehicles titled showing that address. When asked who lives in the house on [REDACTED] he stated [REDACTED] lived there alone. When asked who lived at the house for the time period June 2006 through December 2006, he indicated at first that [REDACTED] lived there alone, and then added that her sister, [REDACTED], lived with

her for a while, with her son _____. Then he added that the Claimant's "kid" also lived there.

- 5) The Claimant completed a written witness statement on January 12, 2007. (D-8) In the statement, she indicates she has lived at _____ in _____ for about four (4) to six (6) years. She stated she was about 15 years old when her mom and dad moved in. She stated when she applied for WV Works and food stamps in June 2006 she lived there with her son and her nephew. She stated her son's father has not lived with her since the child was three (3) and ½ years old. She stated he lived with his parents in _____ County. She stated her son's father has stayed the night at her house and would sometimes baby-sit while she was working. She states that her father moved out from her home after her sister left in May or June 2006, to _____. She also indicated that she was aware from the time of application that she was to report household income and household composition.
- 6) The Department presented evidence (D-9) showing the Claimant's father is listed on his driver's license as living at _____ which was last updated October 14, 2005. The evidence also shows he has several vehicles titled with the Department of Motor Vehicles showing the same address, as well as tax records for 2006.
- 7) WV Income Maintenance Manual Section 1.25E states in pertinent part:

WHO MUST BE INTERVIEWED

If the child is living with both parents or a parent and a stepparent, both must be interviewed unless:

- One parent or stepparent is hospitalized; or
- One parent or stepparent is incarcerated; or
- One parent or stepparent is employed and his working hours preclude participation in the interview during the agency's normal working hours.

- 8) WV Income Maintenance Manual Section 1.25U states in pertinent part:

ORIENTATION

Orientation is part of the application process. Each adult and emancipated minor in the WV WORKS AG must receive orientation to the Program. Attending a WV WORKS orientation and signing the OFA-WVW-4 are eligibility requirements, so eligibility may not be established until these are completed.

- 9) WV Income Maintenance Manual Section 2.17.3 states in pertinent part:

Change in the AG

An individual who is added to an existing AG is treated as an applicant. Benefits for the individual are prorated from the date that all eligibility requirements are met, including signing the PRC and attending orientation. Eligibility cannot be earlier than the date the individual entered the home.

- 10) WV Income Maintenance Manual Section 9.1.A.1(2) states in pertinent part:

FOOD STAMP ELIGIBILITY DETERMINATION GROUPS

A. THE ASSISTANCE GROUP (AG)

1. (2) 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.

- 11) WV Income Maintenance Manual Section 9.21.A.1 states in part:

WV WORKS ELIGIBILITY DETERMINATION GROUPS

A. THE ASSISTANCE GROUP (AG)

1. Who Must Be Included

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) live with the child(ren).

VIII. CONCLUSIONS OF LAW:

- 1) Testimony from witness #2 is found to be credible. His testimony is convincing in his knowledge that the Claimant's father was a resident of the [REDACTED] address for the time in question, however, he admits his knowledge of the boyfriend and his presence at the address is not as clear. No other evidence was provided to show the boyfriend resided at the [REDACTED] address during the period in question.

- 2) Evidence provided from the Claimant and her father is contradictory and found to be less credible. The Claimant's written statement indicated she had lived at the [REDACTED] address for four (4) to six (6) years, but also says that when she was 15 when her mom and dad move [sic] in. She states that her father moved out in May or June 2006. Her father's testimony was that he had lived at [REDACTED] for the last one (1) and ½ years, and that the Claimant lived alone at the [REDACTED] address.
- 3) Evidence from the Department (D-9) clearly shows the Claimant's father is using the [REDACTED] address as his residential address.
- 4) Although the Department provided convincing evidence that shows conclusively the Claimant's father was living with her at the [REDACTED] address when the "neighborhood check" was completed in November 2006, the Department failed to show conclusively that the Claimant's boyfriend resided with her during the same timeframe.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is **reversed** in the decision to terminate the claimant's WV Works Cash Assistance and **upheld** in the decision to terminate the Claimant's eligibility for food stamps.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 6th Day of March 2007.

**Cheryl McKinney
State Hearing Officer**