



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 W Washington St.
Charleston, WV 25313

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 26, 2009

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 24, 2009. Your hearing request was based on the Department of Health and Human Resources' decision to take adverse action against your WV Works Cash Assistance and SNAP Food Stamp cases when you failed to provide requested information about your youngest child's father so that he could be added to your assistance group.

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 SNAP Food Stamp Program is based on current policy and regulations. Some of these regulations state as follows: For the SNAP Food Stamp Program, all eligible individuals who both live together and purchase and prepare their meals together must be included. (WV Income Maintenance Manual Section 9.1.A.1). For WV Works Cash Assistance, 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)

The information which was submitted at your hearing failed to show that that your youngest child's father lives with you, and therefore he should not have been included in your case. The information the Department requested was unnecessary, and you were under no obligation to provide it.

It is the decision of the State Hearing Officer to **reverse** the action of the Department to take adverse action against your WV Works Cash Assistance and SNAP Food Stamp cases because you failed to provide requested information about your youngest child's father.

Sincerely,

Jennifer Butcher
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Debra Cottrill, [REDACTED] DHHR

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

-----,

Claimant,

v.

**Action Number: 08-BOR-2650 - WWV
09-BOR- SNAP FS**

**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 February 24, 2009 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 February 24, 2009 on a timely appeal, filed December 23, 2008.

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
-----, Claimant's mother – Witness #1
-----, Claimant's youngest son's father – Witness #2

Debra Cottrell, Department Representative
Tammy Drumheller, Front End Fraud Specialist

Presiding at the hearing was Jennifer Butcher, 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 take adverse action against the Claimant's WV Works Cash Assistance and SNAP Food Stamp cases due to her failure to provide requested information about her youngest child's father.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 9.1A.1
WV Income Maintenance Manual Section 9.21.A.1

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Verification Checklist notice dated December 8, 2008 for WV Works Cash Assistance
D-2 Verification Checklist notice dated December 8, 2008 for SNAP Food Stamps
D-3 Appointment notice dated December 5, 2008
D-4 WV Income Maintenance Manual Section 9.21.A.1

Claimant's Exhibits

C-1 Bill from Suddenlink dated November 18, 2008
C-2 Certificate of Insurance coverage dated from October 22, 2008 to April 17, 2009

VII. FINDINGS OF FACT:

- 1) The Claimant in this case resides at [REDACTED] West Virginia. She was actively receiving West Virginia Works Cash Assistance and SNAP Food Stamp benefits for herself and her children during the month of December 2008.
- 2) The Department claims that during the month of December 2008, after having made several attempts to contact the Claimant, they kept getting connected to the absent parent's (witness #2) telephone. The Department's Front End Fraud Unit (FEFU) conducted an investigation during the same month to determine the household composition in this case. As a result, the FEFU worker determined that the Claimant's youngest child's father (witness #2) was living in the home with her at [REDACTED] West Virginia.
- 3) The FEFU Worker testified that she went to the community where the child's father (witness #2) was purported to live, namely [REDACTED] and witnesses told her that he had moved in with his girlfriend. She stated that she spoke with witnesses in the Claimant's community and they told her that they saw his vehicle in the area, and often saw them together. She stated that she recently checked the area and the home at [REDACTED] is now boarded up. She states she notified the case worker that she had verified the child's father (witness #2) was living with the Claimant.
- 4) The Department stated during the hearing that "a sanction was placed on the case for misrepresentation and a good cause appointment was scheduled for December 16, 2008". The Department sent the Claimant a notice of appointment letter (D-3) on December 5, 2008 which includes the following pertinent information:

You have been scheduled for an Income Maintenance/Family Support appointment.

Your appointment is scheduled for: Date: December 16, 2008
(Good Cause)

Time: 9:30 AM

This interview will be with the following worker at the address below:

Debra Cottrill – 4190 West Washington Street, Charleston, WV 25313

THIS IS A SCHEDULED APPOINTMENT FOR GOOD CAUSE FOR WV WORKS. FEFU REPORTS THAT ----- IS IN THE HOME. HE IS LISTED AS FATHER OF A CHILD IN THE HOME. TO CONTINUE TO RECEIVE WV WORKS BOTH PARENT [sic] MUST BE IN AN ACTIVITY AND HE MUST BE ADDED TO THE CASE. PLEASE PROVIDE BACK TO THE DHHR OFFICE SS CARD AND BIRTH CERTIFICATE FOR ----- . HE NEEDS TO ATTENDS [SIC]

ORIENTATION AND COMPLETE AN APPLICATION IN ORDER FOR YOU TO RECEIVE WV WORKS IN 1008.[SIC] FAILURE TO KEEP THIS APPOINTMENT WILL RESULT IN CASE INELIGIBILITY FOR WV WORKS AND THE PENDING INFORMATION COULD ALSO EFFECT YOUR SNAP BENEFITS.

The Department reports the Claimant appeared for this appointment and that they subsequently determined the Claimant did not have “good cause”. This notice contains no information notifying the Claimant that a sanction has been placed on her WV Works Cash Assistance case.

- 5) The Department also sent the Claimant two other Verification Checklist notices on December 8, 2008 (D-1, D-2) which included the following pertinent information:

(D-1)

This is to inform you that the information listed below is needed to establish your eligibility for: WV Works

If this information is not made available to this office by 12/15/08 your eligibility for benefits and/or deductions cannot be established or continued.

HOUSEHOLD INFORMATION NEEDED:

Proof of Signing the Personal Responsibility Contract.

Proof of Signing the WV Works Orientation Form.

INDIVIDUAL INFORMATION NEEDED:

Proof of birth date.

Proof of living arrangement.

Proof of citizenship.

(D-2)

This is to inform you that the information listed below is needed to establish your eligibility for: SNAP

If this information is not made available to this office by 12/15/08 your eligibility for benefits and/or deductions cannot be established or continued.

HOUSEHOLD INFORMATION NEEDED:

INDIVIDUAL INFORMATION NEEDED:

Proof of birth date.

Proof of living arrangement.

Proof of citizenship.

If we do not receive the above information at the local office address above by 12/15/08 and your SNAP application is denied, you may still provide the information to the DHHR within 60 days of the date of your application. Your eligibility for SNAP benefits will be determined and you will not have to make another application.

- 6) No evidence was provided by the Department to support that the Claimant was notified that a sanction or other negative action was being taken against her WV Works Cash Assistance and SNAP Food Stamp cases.
- 7) The Department's position is that FEFU verified the child's father (witness #2) was living in her household and as a result must be included in both the WV Works Cash Assistance and SNAP Food Stamp cases. The Claimant failed to cooperate in providing information about him (witness #2) that the Department deemed necessary to determine continued eligibility.
- 8) The Claimant's position is that the child's father (witness #2) does not live with her. He visits his child and has occasionally stayed overnight, but he does not live there. She stated that he has no personal belongings there and does not receive his mail at her residence. Both her mother and witness #2 testified that he does not live with the Claimant. The Claimant's mother testified that she has never seen any of his personal belongings in the home. She stated she has helped her daughter do laundry and clean the home. The child's father provided evidence (C-1, C-2) of his residence in the form of a recent utility bill and certificate of insurance showing his address as [REDACTED] West Virginia.
- 8) WV Income Maintenance Manual Section 9.1.A.1 states in pertinent part:

SNAP ELIGIBILITY DETERMINATION GROUPS

A. THE ASSISTANCE GROUP (AG)

1. Who Must Be Included

The SNAP AG must include all eligible individuals who both live together and purchase and prepare their meals together.

- 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) Policy is clear in that if the child's father (witness #2) lives in the home of the Claimant, he must be included in both the WV Works Cash Assistance and SNAP Food Stamp cases.
- 2) Evidence provided from the Department's FEFU worker indicates that witnesses saw the Claimant with the child's father often, and that some witnesses at his stated address reported he had "moved in with his girlfriend". The Department stated his listed home on [REDACTED] is now boarded up. None of the FEFU worker's witnesses were available for questioning; therefore less weight is given to their statements.
- 3) Evidence from the Claimant and her witnesses indicate that the child's father (witness #2) does not live with her. He visits often and sometimes stays overnight, but does not live there. I find their testimony to be credible and certain written evidence (C-1, C-2) corroborates their testimony.
- 4) The totality of evidence in this case supports that the child's father does not live with the Claimant, and therefore he should not have been included in this case. The Claimant was under no obligation to provide the requested documentation, and therefore the Department should not have acted adversely.

IX. DECISION:

It is the finding of the State Hearing Officer that the Department is **reversed** in their decision to take adverse action against the Claimant's WV Works Cash Assistance and SNAP Food Stamp cases because she failed to provide requested information about the child's father.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 26th Day of March, 2009.

**Jennifer Butcher
State Hearing Officer**