



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

Joe Manchin III
Governor

Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary

September 7, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 31, 2010. Your hearing request was based on the Department of Health and Human Resources' actions to deny your WV WORKS cash assistance application dated June 29, 2010 and remove your children from your SNAP because it determined they were included in a SNAP case in Ohio during June 2010.

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 and benefit levels for SNAP and WV WORKS are based on current policy and regulations. Some of these regulations state that for SNAP, all individuals who both live together and purchase and prepare meals together must be included in the same assistance group (AG). (West Virginia (WV) Income Maintenance Manual Section 9.1.A) Individuals may only receive SNAP benefits from one state in any month. Therefore, individuals who have already received or will receive SNAP benefits in another state are ineligible to be included in a SNAP AG in WV for that same month (WV Income Maintenance Manual Section 9.1) For WV WORKS, all minor, dependent, blood-related and adoptive siblings who live in the same household and are otherwise eligible are required to be included in the AG. (WV Income Maintenance Manual Section 9.21.A.1)

The information submitted at your hearing fails to support that your three (3) children received SNAP and Medicaid in another individual's case in the State of [REDACTED] during the month of June 2010. The evidence shows that your children were living with you in WV during June 2010. There is also no evidence your children received cash assistance in [REDACTED] during June 2010.

It is the decision of the State Hearing Officer to **reverse** the Department's decisions to deny your WV WORKS cash assistance application dated June 29, 2010 and to remove your three (3) children from your SNAP case.

Sincerely,

Cheryl Henson, State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / -----, [REDACTED] DHHR

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

-----,

Claimant,

v.

**Action Number: 10-BOR-1698 WV WORKS
10-BOR-1699 SNAP**

**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 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 August 31, 2010 on a timely appeal filed July 19, 2010.

II. PROGRAM PURPOSE:

The purpose of the Supplemental Nutrition Assistance Program (SNAP) 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 benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

The purpose of WV WORKS is to help economically dependent, at-risk families become self-supporting. It is a work-oriented, performance-based, time-limited Program that emphasizes employment and personal responsibility. 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 assistance to emphasize employment and personal responsibility.

III. PARTICIPANTS:

-----, Claimant
-----, Claimant's witness
-----, Department representative

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The questions to be decided are whether the Department was correct in its decision to deny the Claimant's WV WORKS cash assistance application dated June 29, 2010 as well as reduce her SNAP by removing her three (3) children from the AG (assistance group).

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual §8.5, 9.1, 9.21

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Verification from State of [REDACTED] undated
- D-2 WV Income Maintenance Manual Section 9.1
- D-3 WV Income Maintenance Manual Section 8.5
- D-4 WV Income Maintenance Manual Section 8.2
- D-5 Case Comments from the Department's RAPIDS computer system

Claimant's Exhibits:

- C-1 School enrollment information

VII. FINDINGS OF FACT:

- 1) The Claimant was actively receiving SNAP, formerly known as Food Stamps, when she submitted an application for WV WORKS cash assistance on June 29, 2010. The Department's representative, -----, testified that at the time of the WV WORKS application the case worker reviewed prior case comment notes which showed there was a previous issue as to the children moving back and forth from West Virginia and [REDACTED]. The Department at that time contacted the [REDACTED] Department of Job and Family Services in an attempt to determine if the Claimant's three (3) children were currently receiving any benefits there.

- 2) ----- testified that he was not the worker involved in this application decision and therefore he has little knowledge of the facts of the case. However, he presented evidence (D-1) which he states the Department received from the [REDACTED] Department of Job and Family Services. The undated documentation consists of two pages and is entitled [REDACTED] Department of Job & Family Services – Benefit Verification”. The first page lists the “client name” as ----- [REDACTED] who is one of the Claimant’s children. It states in the comments section that --- --is in receipt of Food Stamps and Medicaid. However, the form does not list a date of receipt and there is no date found anywhere on the document to support a timeframe of receipt of these benefits. The form does list a case worker name and telephone number for contact purposes. The second page lists the “client name” as -----, who is also one of the Claimant’s children. The form again is not dated, but provides that the child is “open” for Medicaid and Food Assistance. In the “additional comments” section, it reads “----- also active. 2 other siblings and father also active on case.” ----- is also the Claimant’s child.
- 3) ----- contends that the Department’s verification of the [REDACTED] benefits consists of the two documents (D-1) provided to them by the State of Ohio as verification that the children were included in SNAP and Medicaid there, and that the Department denied the Claimant’s WV WORKS application and removed the children from her SNAP and Medicaid cases as a direct result of this information. Case comments (D-5) show the worker documented on June 29, 2010 that all three children are currently receiving benefits in Ohio; however there are no comments that explain how that information was obtained. The only written evidence the Department presented at hearing was the verification pages (D-1) which are unreliable and vague due to the fact that no dates are provided.
- 4) The Claimant testified that she verified on June 14, 2010 during a SNAP review with the Department that her children were actually living with her in West Virginia. She states she provided school records (C-1) to show the children attended school in West Virginia. She stated that she also provided neighbor and landlord statements to support that the children live with her. She contends that the Department was obligated to resolve the issue with the State of [REDACTED] with the information she provided and that she should have been approved for WV WORKS cash assistance and her SNAP should not have been reduced.
- 5) ----- testified that he does not dispute that the Claimant provided evidence the children live with her as reported, and contends the Claimant “probably did have her children” when she applied for assistance in June 2010, but because the children were included in the SNAP and Medicaid cases in [REDACTED] they had to be removed from the Claimant’s West Virginia SNAP case. He added that case comments in the Department’s computer system show (D-5) that the Claimant was told by the Department that she needed to contact the State of [REDACTED] to effect termination of the benefits before the children could be added back to benefits in West Virginia. ----- testified that the Department “tried” to get the State of [REDACTED] to remove the children from benefits there by informing them that the Claimant stated the children lived with her in West Virginia, but were told that they would need more information in addition to the Claimant’s statements in order to make such changes. He added that the Department did not provide or inform the State of [REDACTED] that it was in possession of school records as well as neighbor and landlord statements to support that the children live in West Virginia.
- 6) -----, the Claimant’s room-mate, testified that she has lived with the Claimant for the past three (3) years and that the children have never lived with their father in [REDACTED]. She stated that ----- left last year and returned in June 2010 to live with his mother. She did not explain where -----

resided for the period of time he was out of the Claimant's home. She stated that she also recalls witnessing that the Claimant obtained neighbor and landlord statements and provided those to the Department during the month of June 2010 to show the children live with her. Her testimony is found to be credible and supports the Claimant's written verification (C-1).

- 7) The West Virginia Income Maintenance Manual §9.1 A 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.

The following shows the make-up of a SNAP AG.

b. Individuals or Groups of Individuals Living with Others

(1) Purchase and Prepare Together

A group of individuals who live together, and for whom food is customarily purchased and prepared together, is an AG.

Customarily is used to mean over 50% of meals on a monthly basis.

- 8) The West Virginia Income Maintenance Manual §9.21.A.1 states in pertinent part for WV WORKS cash assistance groups:

A. THE ASSISTANCE GROUP (AG)

1. Who Must Be Included

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)...

- 9) The West Virginia Income Maintenance Manual §4.2 states in pertinent part that residence is necessary to be verified for SNAP prior to approval and can be accomplished by obtaining rent or mortgage receipts, a landlord's statement, and/or written statements from neighbors or employment records.

- 10) The West Virginia Income Maintenance Manual §9.1 states in pertinent part:

n. Recipients in another State

Individuals may only receive SNAP benefits from one state in any month. Therefore, individuals who have already received or will receive SNAP benefits in another state are ineligible to be included in a SNAP AG in WV for that same month.

- 11) The West Virginia Income Maintenance Manual §8.5 states the following pertinent information:

LIMITATIONS OF RECEIPT OF OTHER BENEFITS

The following general rules apply to the receipt of other Income Maintenance benefits:

A. SNAP BENEFITS

No person may receive SNAP benefits in more than one AG for the same month.

B. MEDICAID

No person can receive Medicaid coverage in more than one AG concurrently, unless he receives coverage in one AG and is payee only for another.

C. WV WORKS

No person may be included in more than one WV WORKS AG for the same month.

- 12) The West Virginia Income Maintenance Manual §8.2 states in pertinent part:

RESIDENCE

To be eligible to receive benefits, the client must meet the eligibility requirement of residence.

The client must live within the borders of West Virginia. Intent to remain permanently in West Virginia is not a requirement, although the client must reside in the State for purposes other than vacation. A time limit cannot be set for how long the client must live in West Virginia. A client cannot be required to maintain a permanent or fixed dwelling.

An individual remains a resident of the former state until he arrives in West Virginia with the intention of remaining indefinitely. Therefore, intent to

establish or abandon residency must be known before the state of residence is determined.

A. SNAP BENEFITS

1. Determining State of Residence/Movement between States

When an individual, who is receiving SNAP benefits in another state, establishes residence in West Virginia and applies for benefits the Worker must determine when SNAP benefits in the other state were stopped. The individual is eligible in West Virginia for the month following the month he last received benefits in the former state of residence, if otherwise eligible.

C. WV WORKS

1. Determining State of Residence/Movement between States

When an individual received or is receiving cash assistance in another state, moves to West Virginia and applies for benefits, the Worker must determine if the case in the other state is closed. Cash assistance received from another state makes that individual ineligible for WV WORKS cash assistance during the same month regardless of the amount received in the other state.

13) The West Virginia Income Maintenance Manual §1.2.D states in pertinent part:

D. WORKER RESPONSIBILITIES

The Worker has the following general responsibilities in the application process. Responsibilities that are Program- or coverage group-specific are found in the Program section of this Chapter.

- Obtain all pertinent, necessary information through verification, when appropriate.
- Adhere to the Department's policies and procedures to establish eligibility, including those regarding timely action and/or decision.
- Assist the client in obtaining information required to establish his eligibility.
- Ensure that proper case recordings are made to document the Worker's actions and the reason for such actions.

E. CLIENT RESPONSIBILITY

The client's responsibility is to provide information about his circumstances so the Worker is able to make a correct decision about his eligibility. When the client is not able to provide the required verification, the Worker must assist him.

Prior to taking any of the actions described above, the Worker must determine whether or not the client is able to cooperate. If he is able, but has not complied, the appropriate action described above is taken. If not, the Worker must assist the client in obtaining the required information.

F. APPLICANT RECEIVES BENEFITS FROM ANOTHER STATE

When an applicant states that he is or has been receiving SNAP benefits, cash assistance and/or Medicaid from another state and presents a letter which shows the last date for which he received benefits, contact with the other state is usually necessary only to inquire about repayment of benefits in that state, if the issue is not addressed in the letter. However, if cash assistance is involved, a contact is also necessary to determine the amount and the number of months received. The Worker must obtain the following information by telephone from the other state. The American Public Human Services Association (APHSA) Directory contains current telephone numbers. This information may also be found on state web sites on the internet.

- Date on which the client last received or will receive his last benefits
- Effective date of the termination of benefits
- The individuals included in the benefit
- Whether or not any of the client's last benefits were returned to the agency
- The Worker must determine how many months the client received TANF payments in the other state.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that for SNAP, all individuals who both live together and purchase and prepare meals together must be included in the same AG. For WV WORKS, parents who live with their children who are included in a WV WORKS AG must be included in the same WV WORKS AG. Policy also provides that individuals may not receive SNAP or WV WORKS cash assistance in more than one case in any given month.
- 2) Policy is clear in that the Worker has the responsibility to assist the Claimant in obtaining necessary verification. The Claimant has the responsibility to provide all necessary verification to the best of her ability.
- 3) The Department's action, having knowledge that the Claimant's children were possibly receiving benefits in the State of [REDACTED] was reasonable in requesting verification of residence for the children. This information was provided by the Claimant in a timely manner.
- 4) In this case, the Claimant was instructed by the Department that, in order to be eligible for benefits for the children in West Virginia, she must contact the State of [REDACTED] in order to effect a termination of SNAP and Medicaid benefits that her children's father was receiving for them there.
- 5) The Claimant provided school records, landlord statements, and neighbor statements to the Department in support of her claim that the children live with her in West Virginia.

- 6) The Department did not dispute or question the Claimant's testimony and written evidence supporting that the children live with her in West Virginia. The Claimant provided the Department with numerous documents including written statements from neighbors and her landlord which corroborate her claim that the children live with her, as well as school documentation verifying the attendance of the children in West Virginia schools. The Department had an obligation to provide the State of [REDACTED] with this verification in order to ensure that benefits were not issued for the children erroneously in that state.
- 7) The Department's evidence (D-1) (D-5) to support that the children were receiving SNAP and Medicaid in the State of [REDACTED] during June 2010 is vague and unreliable. The evidence is clear in that the children were living with the Claimant during the month of June 2010. Therefore, the Department was not correct, based on the verification available at the time, to remove her children from her SNAP case. Although the Department's evidence (D-1) supports that at some point the children were included in SNAP and Medicaid in the State of [REDACTED] the evidence is given little weight as it offers no date or timeframe for receipt of the assistance.
- 8) Additionally, there is no evidence to support that cash assistance was ever being received for any of the children in another state; therefore the Department was not correct to deny the Claimant's application for WV WORKS cash assistance dated June 29, 2010 based on this information.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the Department's action to deny the Claimant's June 2010 WV WORKS cash assistance application and remove her children from her SNAP case.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 8th Day of September, 2010.

**Cheryl Henson
State Hearing Officer**