



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 W Washington St.
Charleston, WV 25313
304-746-2360 Ext 2227

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

March 31, 2009

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law of your hearing held on December 16, 2008 for AFDC Medicaid and hearing held on January 13, 2009 for Supplemental Nutrition Assistance Program (hereinafter SNAP) benefits. Your hearing request was based on the Department of Health and Human Resources' action to decrease your SNAP and AFDC Medicaid 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 the SNAP and AFDC Medicaid Programs is based on current policy and regulations. Some of these regulations state that individuals cannot receive SNAP and AFDC Medicaid concurrently in two different cases. (West Virginia Income Maintenance Manual Section 8.6)

Information submitted at your hearing reveals that your step-son, ----- [REDACTED] has resided with you and was removed in error by the Department's worker.

It is the decision of the State Hearing Officer to **uphold** the Department's action to deny your SNAP benefits and close his AFDC Medicaid card while your step-son was receiving these benefits in another case.

Sincerely,

Jennifer Butcher
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Sheila Davis, Bureau of Family Services

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

-----,

Claimant,

v.

**Action Number: 08-BOR-2176
08-BOR-2177**

**West Virginia Department of
Health and Human Resources,**

Respondents.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on March 31, 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. The fair hearings were convened on December 16, 2008 and January 13, 2009 on a timely appeal filed September 24, 2008.

II. PROGRAM PURPOSE:

The program entitled Supplemental Nutrition Assistance Program (SNAP) is set up cooperatively between the federal and State government and administered by the West Virginia Department of Health and Human Resources.

The purpose of 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 an EBT card to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

Aid to Families with Dependent Children (AFDC, AFDCU - for unemployed parents) Medicaid program is designed to provide medical assistance to eligible families with children to age 18. These dependent children must be deprived of parental support due to the death, continued absence, incapacity, or unemployment of the parents. In addition, the family must meet financial eligibility criteria.

III. PARTICIPANTS:

-----, Claimant

-----, Mother-in-law of Claimant

Sheila Davis, BFS, DHHR

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 to be decided is whether or not the Department was correct in its action to decrease the Claimant's benefits through the SNAP and AFDC Medicaid programs.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Sections 8.6, 15.2, C, 1 and 15.2, C, 2

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

Let the record show the Department did not submit any documentation to support its' case.

Claimant's Exhibits:

C-1 Four (4) verifications of residency for ---- [REDACTED] that were faxed September 2, 2008, when the Claimant requested a pre-hearing conference.

VII. FINDINGS OF FACT:

- 1) The hearing was scheduled on October 6, 2008. The notification letter indicated the hearing would be conducted on December 16, 2008 at 9:00 AM in the [REDACTED] County DHHR office. The day the hearing was to convene, the Department was not prepared to present their case and asked for a continuance. The continuance was granted for the SNAP issue according to West Virginia Income Maintenance Manual Common Chapters §710.18 states in part:

A request for continuance shall only be granted for good cause, except in the case of hearings involving the Supplemental Nutrition Assistance Program wherein each party may request, and is entitled to receive, one continuance of a hearing for any reason.

The Medicaid portion of the hearing was not granted a continuance and was convened on December 16, 2008.

- 2) The Claimant applied for additional benefits on July 8, 2008. At this time the child, ----, had been receiving medical coverage in his stepmother's case since April, 2008. The Claimant was informed ----- would be removed from her case because he was also receiving benefits in his biological mother's case. The Department stated they were notified by the Child Advocate office that the child was in the home of his mother for the summer and was requesting the removal of ----- from the stepmother, -----'s, case and to be placed on the biological mother, [REDACTED] case.

- 3) The Claimant's stepson was removed from his stepmother's medical coverage case effective August 2008 and continued to be in the case with his biological mother through November 30, 2008, when he was removed and placed back in the stepmother's case.
- 4) The Claimant requested a pre-hearing conference on September 2, 2008. At that time, she also included the information that was requested by the Department worker to provide verification that her stepson did, in fact, reside in her home. (Exhibit C-1). The Claimant was later informed the paper work was never received and she brought the papers in again on October 28, 2008 and at that time the worker added her stepson back into the home of the stepmother.
- 5) The Claimant had requested an explanation as to how a person could be removed from a case where he has always received benefits and added to another case with no verification that he had moved? Also why the worker took so long to process the information that was provided in September to get him added back effective December, 2008.
- 6) West Virginia Income Maintenance Manual Section 8.6 Non-Duplication of Benefits

A client may not receive SNAP benefits, WV WORKS or Medicaid concurrently in more than one county in West Virginia or more than one state. In addition, he may not receive different types of benefits in more than one county or state at the same time, except as specified below. The possibility of intentional misrepresentation must be explored when it is discovered that the client is receiving benefits of any type in more than one county at the same time. See: Common Chapters Manual for procedures involving misrepresentation.

- 7) West Virginia Income Maintenance Manual Section 8.2.3a

3. Prolonged absence from the home:

Regardless of the reason for the absence, any person expected to be absent from the home for a full calendar month or more is not eligible to be included in the AG.

NOTE: This policy applies to in-state and out-of-state travel. Although an individual may meet the residency requirement, he may not be eligible to be included in the AG. Refer to Chapter 9 for specific requirements about who may be included in the AG.

a. Visiting

Temporary visits with the intent to return, do not affect the individual's place of residence, unless he has been or is expected to be absent from the home for a full calendar month.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that an individual cannot receive SNAP benefits concurrently in two different benefit groups.
- 2) The Claimant provided verification in September 2008 for her stepson be added back to her medical card and added to the Supplemental Nutrition Assistance Program (SNAP) benefits. However, the child continued to receive medical coverage and SNAP in his biological mother's case due to an agency error. Because individuals cannot receive SNAP concurrently in two different cases. The agency did not act timely in processing the information according to the dates that the information was provided. The information was provided on September 2, 2008 and changes should have been made effective October 2008, but the Department did not act on this until late October effective December 2008.
- 3) The agency acted correctly in denying the Claimant's AFDC Medicaid coverage and SNAP benefits during the time period in which the step-son was receiving benefits in another case.

IX. DECISION:

Based on information presented during the hearing, it is the decision of the State Hearing Officer to **uphold** the Agency's action to deny both the Claimant's AFDC Medicaid application and request for an addition to his Food Stamp Assistance Group for the step-son while he was receiving benefits in another case.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 31th day of March, 2009.

Jennifer Butcher
State Hearing Officer