



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

October 21, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 19, 2010. Your hearing request was based on the Department of Health and Human Resources' action to terminate your benefits received through the Supplemental Nutrition Assistance Program (SNAP) and SSI-Related Medicaid due to excessive gross income once your husband was added to your case.

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 the Supplemental Nutrition Assistance Program (SNAP) and SSI-Related Medicaid Program are based on current policy and regulations. SNAP regulations states that spouses who live together must be included in the same assistance group even if they do not purchase and prepare meals together. For SSI- Related Medicaid, the income of spouses must be either counted in its entirety or partially deemed toward the recipient depending on whether the spouse is eligible to be included in the assistance group or not. (WV Income Maintenance Manual Sections 9.1 and 9.19)

Information submitted at your hearing reveals that your spouse, -----, lived in your home at the time of the Department's determination. His income, when considered, was determined excessive for the program. You did not dispute the Department's income calculations.

It is the decision of the State Hearings Officer to **uphold** the proposal of the Department to terminate your SNAP and SSI-Related Medicaid.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Tera Pendleton, [REDACTED] DHHR

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

-----,

Claimant,

v.

**Action Number: 10-BOR-1959 (SNAP)
10-BOR-1960 (SSI-Related Medicaid)**

**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. It was convened on October 19, 2010 on a timely appeal filed August 13, 2010.

Pursuant to Common Chapters Manual, 710.16 and 710.23, the Claimant's SNAP and Medicaid benefits were continued as the Claimant filed her appeal within the 13-day adverse action notice and requested that benefits continue in her written appeal.

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 Medicaid categorically related to Aid to Families with Dependent Children Program is designed to provide medical assistance to eligible families with children from the fetal stage 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
Tera Pendleton, Department representative

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

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in its proposal to terminate the Claimant's Supplemental Nutrition Assistance Program (SNAP) benefits and SSI-Related Medicaid benefits based on the addition of her husband, -----, and his income to the case.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual, Chapters 2.4, 9.1 and 9.19

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case Household Information screen from computer system
- D-2 Case comments from computer system
- D-3 Income Verification forms from [REDACTED] Inc.
- D-4 Claimant Profile Data form and benefit history from computer system
- D-5 Case Household Information screen from computer system
- D-6 Letter of verification from [REDACTED] County Courthouse
- D-7 Case comments from computer system
- D-8 Handwritten letter dated October 18, 2009
- D-9 Case comments from computer system
- D-10 Case comments from computer system
- D-11 Front-End Fraud Unit Investigative Findings form

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was an active recipient of benefits as a one (1) person household through the Supplemental Nutrition Assistance Program, hereinafter SNAP (formerly Food Stamp Program), as well as the SSI-Related Medicaid program when the Department became aware that she married ----- on October 9, 2009.

- 2) The Department's witness, Deborah Cooper, a Front-End Fraud Unit Investigator housed in the [REDACTED] County, West Virginia Department of Health and Human Resources' (DHHR) office, testified that she received a referral sometime after June 2010 in which it was alleged that ----- was married to and living with the Claimant at her listed address of -----, [REDACTED] in [REDACTED] West Virginia. She stated that ----- was interviewed at the [REDACTED] County, West Virginia DHHR office on June 22, 2010, at which time he provided the worker with information indicating that he was living with the Claimant. The worker documented the following pertinent information into the case comment recording (D-2) section of the computer system on that date:

----- states that his wife, -----, lives in the home but they are getting a divorce and are still married. Stated that she receives medical and SNAP on her own, and he did not want SNAP if it was going to mess up her case and he repeated this several times.

- 3) -----testified that she subsequently verified through the [REDACTED] County, West Virginia Courthouse records (D-6) that the couple was married on October 9, 2009 in [REDACTED] West Virginia. She added that ----- applied for Unemployment Benefits (D-4) on December 28, 2009 and utilized the Claimant's listed address as his own.
- 4) -----pointed out that the Claimant completed numerous review interviews with the Department during the period in question, and that at each of these interviews she failed to report that she married ----- or that he lived with her. She added that the Claimant, in fact, provided a handwritten letter (D-8) which she purported to be written by him at each of these interviews, which occurred on October 19, 2009, December 3, 2009, and On June 3, 2010. The letter is dated October 18, 2009 and includes the following:

I, -----, does let ----- reside at my residence at [REDACTED] WV [REDACTED] Due to her financial situation she needs to only provide for her food. If you have any questions call me at (304)543-7975.

The Claimant agreed during the hearing that she provided this letter on numerous occasions to the Department as proof of her circumstances, and she testified that she is not sure whether ----- signed the letter himself. The letter is dated just nine (9) days after the Claimant's marriage to -----.

- 5) The Claimant did not contest the income calculations completed by the Department in determining her household's financial eligibility; therefore, the income calculations will not be addressed.
- 6) The Claimant contends that ----- does not live with her. She testified that she married him on October 9, 2009 and that he lived with her in the apartment at [REDACTED] until December 1, 2009, at which time he moved out. She testified that he has not lived with her since that time. She stated that she cannot afford to get a divorce at this time, but provided that she has not seen him in at least three (3) months. She added that he lives with his mother.
- 7) The Claimant's testimony is found to be misleading and contradictory in nature and conflicts with the information she purported during her previous review interviews with the Department.

She clearly indicated at each of these interviews that ----- was living in the household, but she did not report that they were married.

- 8) The Claimant reported during her October 19, 2009 interview with the Department (D-7) that she lives with a “friend” as a separate household, and provided the letter (D-8) purportedly written by ----- to support her contention.
- 9) The Department’s records (D-9) show that on December 3, 2009 she reported to them that ----- lived in the home but that they did not purchase and prepare meals together. She did not report the marriage at any time. Her testimony during the hearing was that ----- left her household on December 1, 2009 and that he has not lived with her since that time; however, she continued to report that he did.
- 10) West Virginia Income Maintenance Manual Section 2.4.D, 4 states that when a Medicaid recipient’s circumstances change to the point that he becomes ineligible, the Assistance Group is closed. Eligibility is determined based on case record information.
- 11) The West Virginia Income Maintenance Manual, Chapter 9.1 provides that spouses must be included in the same SNAP AG (assistance group) when they live together, regardless of whether they purchase and prepare their meals together.
- 12) West Virginia Income Maintenance Manual, Chapter 9.19 provides that for SSI-Related Medicaid the income of spouses must be either counted in its entirety or partially deemed toward the recipient, depending upon whether the spouse is eligible to be included in the AG or not.

VIII. CONCLUSIONS OF LAW:

- 1) When determining eligibility for both SSI-Related Medicaid and SNAP benefits, policy provides that the recipient’s spouse and his or her income must be considered in determining eligibility. For SSI-Related Medicaid, the income of spouses must be either counted in its entirety or partially deemed toward the recipient, depending upon whether the spouse is eligible to be included in the AG or not.
- 2) Policy also provides that for SNAP, spouses living together must be included in the same assistance group, regardless of whether they purchase and prepare their meals separately.
- 3) The issue for this hearing involves whether the Claimant’s husband, -----, should have been included in her SNAP and SSI-Related Medicaid cases when the Department made its determination in August 2010.
- 4) The evidence is clear in that the Claimant and ----- have been married since October 9, 2009, and that they live together. The Department presented evidence that supports that ----- lives at ----- with the Claimant. He received his Unemployment Benefits at that address, and the Claimant provided the Department with a letter purportedly written by him also indicating that he lived there. There is some question as to the authenticity of the statement, however. The Department verified the marriage occurred, and the Claimant never reported it. The Claimant’s testimony is found to be misleading at best, and is not supported by the written evidence.

- 5) The totality of the evidence supports that ----- lived with the Claimant at the time of the action; therefore, the Department was correct in its determination to add ----- and his income to the Claimant's cases, which ultimately resulted in case closure.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to terminate your SNAP and SSI-Related Medicaid benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 21st Day of October, 2010.

**Cheryl Henson
State Hearing Officer**