



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

May 7, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 6, 2010. Your hearing request was based on the Department of Health and Human Resources' action on February 5, 2010 to terminate your WV WORKS cash assistance and SNAP due to household composition changes.

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 Income Maintenance Manual Section 9.1.A) For WV WORKS, the parents of child(ren) included in the AG must be included when they live with the child(ren). (West Virginia Income Maintenance Manual Section 9.21.A.1)

The information submitted at your hearing reveals that the evidence is not sufficient to support that ----- lived in your household at the time of the Department's February 5, 2010 action to terminate your SNAP and WV WORKS cash assistance based on him being added to your case.

It is the decision of the State Hearing Officer to **reverse** the action of the Department in terminating your SNAP and WV WORKS cash assistance effective March 2010.

Sincerely,

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

cc: Erika H. Young, Chairman, Board of Review
Barbara Polen, [REDACTED] DHHR

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

-----,

Claimant,

v.

**Action Number: 10-BOR-1193 WV WORKS
10-BOR-1196 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 May 6, 2010 on a timely appeal filed February 16, 2010.

It should be noted that the Claimant requested for her benefits to continue pending the outcome of this hearing. The Department did not continue her benefits, but agreed to correct this oversight by reinstating benefits immediately after the hearing.

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

Barbara Polen, Department representative

Christina Saunders, Front End Fraud Unit (FEFU) Investigator, Department witness

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 decision to add ----- to the Claimant's case and then terminate WV WORKS and SNAP effective March 2010 as a result.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual §9.1, 9.21

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Letter from Adult Probation Department dated April 29, 2010
- D-2 Child Support computer system absent parent screen dated May 6, 2010
- D-3 Letter from Child Support Department dated May 6, 2010
- D-4 Claimant Profile Data screen from RAPIDS computer system dated May 6, 2010
- D-5 RAPIDS computer system new hire information screen dated May 6, 2010
- D-6 Rights and Responsibilities screen dated October 29, 2009
- D-7 RAPIDS computer system absent parent address screen dated April 29, 2010

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was actively receiving SNAP, formerly known as Food Stamps, and WV WORKS cash assistance on February 5, 2010 when the Department notified her that both types of assistance would terminate effective February 28, 2010.

- 2) The Department representative, Barbara Polen, testified that the Department received a complaint on or about January 20, 2010 in which the caller stated that -----, who is the father of at least one of the Claimant's children, had been living in the Claimant's home since June 2009. She added that the Department investigated this complaint, and found evidence to support the claim. The Department then added him to both the SNAP and WV WORKS cases and requested verification of -----'s personal information. The cases were subsequently terminated because the Claimant did not provide verification of -----'s circumstances and because he did not comply with WV WORKS eligibility requirements which mandate that all parents in the household must complete orientation interviews. The Claimant contends he was not living in her household and as a result she was unable to provide the information requested.
- 3) The question before the Board of Review is whether the Department had sufficient evidence to support that ----- was living with the Claimant prior to the February 5, 2010 decision to terminate SNAP and WV WORKS cash assistance for lack of verification of his information and his failure to complete an WV WORKS cash assistance orientation interview.
- 4) The Department provided evidence to support its position in the form of a letter (D-1) from the [REDACTED] County, West Virginia Adult Probation Department dated April 29, 2010 which includes the following pertinent information:

To whom it may concern:

This is to inform the recipient of this letter that ----- has reported a change of address to the [REDACTED] County Adult Probation Office. ----- reports his new address to be [REDACTED]

It should be noted that this address and Subject's living arrangements at this address have not been confirmed by a member of the Adult Probation Office as of this date. This letter is solely for the purpose of identifying -----'s report of a change of address to this office.

The information provided in this letter speaks to -----'s living arrangements on April 29, 2010 and provides no information relevant to his residence during or prior to the month of January 2010.

- 5) The Department provided evidence (D-2) in the form of a computer data screen printout from one of the Department's computer systems which shows that on April 30, 2010 -----'s mailing address was listed as -----, [REDACTED] West Virginia. This address does not match the Claimant's address, and the timeframe for the information being provided is outside the timeframe in question. The Claimant's benefits had already been terminated when this information was obtained.
- 6) The Department provided evidence (D-3) in the form of a letter from a Department employee who works in the Child Support Unit which is dated May 6, 2010 and provides the following pertinent information:

To Whom It May Concern:

According to our records, -----'s address was verified by the U.S. Postal Service as being -----on April 12, 2010. On April 30, 2010 he called our state office and asked that his mailing address be changed to [REDACTED]

Again, this evidence is not probative because it speaks to a timeframe not in question.

- 7) The Department provided evidence (D-4) in the form of a Department computer data screen printout, which shows a cross match with another state agency's data information, and provides information about -----s's unemployment compensation records. This screen shows that he applied for unemployment compensation on January 29, 2010 and utilized the Claimant's mailing address as his own. This suggests that his unemployment compensation checks and other correspondence from that agency would be mailed to the Claimant's address. This evidence is found to be relevant as it speaks to the timeframe involved in the Department's decision.
- 8) The Department presented evidence (D-5) in the form of a Department computer data screen printout which shows that ----- began working for [REDACTED] on March 19, 2010 and listed a mailing address as ----- . The Claimant testified that this address belongs to her next door neighbor, an elderly woman who is not related to ----- . Again, this evidence is not probative as it speaks to a timeframe after the Department's actions.
- 9) The Department presented evidence (D-7) in the form of a Department computer data screen printout which shows that on April 12, 2010, -----'s mailing address was listed as ----- , which matches the Claimant's address. This evidence is shown to be from a timeframe outside the period in question.
- 10) The Department's witness, Christina Saunders, testified that she investigated the January 20, 2010 complaint that reported ----- living with the Claimant. She stated she made two (2) visits to the ----- area. She spoke to one (1) neighbor who reported that she had seen ----- at the home, but she would not swear that he lived with the Claimant. She added that she spoke to --- -- at the Claimant's residence and he told her that he lived at ----- . She stated that she was unable to find anyone in the [REDACTED] neighborhood who could verify that he lived there. She stated that no one answered the door at ----- . She went on to say that his employer shows his address is the same as the Claimant's, and Unemployment Compensation records showed he used the Claimant's address as his own. She testified that the Front End Fraud Unit (FEFU) has found that most people live where they receive their pay checks. On cross examination, she admitted that much of her evidence spoke to -----'s mailing address and not his residential address.
- 11) The Claimant testified that ----- does not live with her. She stated that she was forced to ask him to babysit her children because the Department had failed to supply the Child Care Agency with a referral for her, and she was unable to obtain child care assistance. She stated that the day the FEFU worker spoke to him at her house he was babysitting.
- 12) The Claimant stated that ----- had asked her if he could use her mailing address for purposes of receiving certain mail and she agreed. She added that since that action had been "used against her" by the Department, she had to tell him he could no longer use the address as his own. She stated that she does not know where he actually lives, because when he was babysitting her

children she had transported him from numerous different residences. She stated that his other son lives at -----, so she believes he may be living there at times.

- 13) The Department contends it has shown sufficient evidence to support that ----- lived with the Claimant during the investigation and subsequent termination of her SNAP and WV WORKS cash assistance in February 2010.
- 14) The Claimant contends that ----- does not and has not lived with her during the period in question. She stated that some of the Department's evidence shows where ----- received his mail, and that some of its evidence shows he received mail at her address. She added that other evidence provided by the Department shows he utilized other mailing addresses. She contends the Department's evidence does not show that he lived with her.
- 15) 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.

- 16) The west Virginia Income Maintenance Manual §9.21.A.1 states in pertinent part:

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)...

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.
- 2) Policy is clear in that if ----- is found to be living with the Claimant, he must be included in both the SNAP and WV WORKS cash assistance cases. The question for this hearing is whether the evidence shows that ----- lived with the Claimant during the period of January and February 2010 when the Department conducted its investigation and subsequently terminated the Claimant's benefits.
- 3) Several of the documents submitted by the Department as evidence (D-1, D-2, D-3, D-5, and D-7) do not speak to the timeframe in question and are therefore not relevant for the purposes of this hearing.
- 4) One document of evidence (D-4) is found to be relevant. This document provides information from -----'s unemployment compensation claim that was filed January 29, 2010, in which his mailing address is listed as -----, [REDACTED] West Virginia [REDACTED]. This document of record is consistent with the period of time in question, and shows that ----- was utilizing the Claimant's mailing address as his own for the purposes of corresponding with the unemployment compensation agency.
- 5) The testimony from the FEFU investigator, Christina Saunders, is also found to be relevant; however, her testimony supports that only one individual reported seeing ----- at the Claimant's home, and that individual would not swear that he lived in her home. She offered no other substantive testimony regarding her investigation to support the Department's contention that ----- lived with the Claimant at that time.
- 6) Clearly, the testimony provided by the witness, Christina Saunders, along with the one document of evidence (D-4) found to be relevant, is not sufficient to support that ----- lived with the Claimant during the period in question.
- 7) Therefore, the Department was not correct in its decision to terminate the Claimant's SNAP and WV WORKS cash assistance based on this information. There is simply not enough evidence to support this claim.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the Department's action to terminate the Claimant's SNAP and WV WORKS cash assistance.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 7th Day of May, 2010.

**Cheryl Henson
State Hearing Officer**