



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Joe Manchin III
Governor

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

May 18, 2010

RE: -----

Action No: 09-BOR-2412

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 27, 2010. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate -----' Supplemental Nutrition Assistance Program (SNAP) benefits due to excessive income.

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 SNAP is based on current policy and regulations. These regulations provide that the SNAP Assistance Group must include all individuals who both live together and purchase and prepare their meals together (WV Income Maintenance Manual § 9.1A).

The information submitted at the hearing failed to establish that -----' estranged husband, -----was residing in her household.

It is the decision of the State Hearing Officer to **Reverse** the proposal of the Department to terminate --- --' SNAP benefits.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Tammy Turner, Economic Service Supervisor

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

-----,

Claimant,

v.

Action Number: 09-BOR-2412

**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 April 27, 2010 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 April 27, 2010 on a timely appeal, filed November 24, 2009.

It should be noted here that the claimant's benefits under the Supplemental Nutrition Assistance Program (SNAP) have continued pending a decision.

II. PROGRAM PURPOSE:

The Program entitled SNAP is administered by the West Virginia Department of Health & Human Resources.

The purpose of the 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.

III. PARTICIPANTS:

-----, Claimant

-----, Esquire, Counsel for Claimant

-----, Witness for Claimant

Tammy Turner, Economic Service Supervisor
-----, Criminal Investigator

Presiding at the Hearing was Kristi Logan, State Hearing Officer and a member of the Board of Review.

All participants testified by phone.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department's proposal to terminate Claimant's SNAP benefits is correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 9.1 A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing/Grievance Record Information
- D-2 Hearing Request received November 24, 2009
- D-3 Notification Letter dated November 17, 2009
- D-4 Correspondence from -----to -----dated November 13, 2009
- D-5 WV Income Maintenance Manual § 9.1 A
- D-6 WV Income Maintenance Manual § 10.4 A
- D-7 WV Income Maintenance Manual Chapter 10 Appendix A
- D-8 Postal Verification dated November 12, 2009
- D-9 Employment Verification from -----dated November 6, 2009
- D-10 Attendance Verification from [REDACTED] Elementary School for -----Jr.
- D-11 Application for Assistance with [REDACTED] County Family Centered Oversight Collaborative and Correspondence
- D-12 Copy of Commercial Driver's License for -----
- D-13 Copy of Non-Operator's Identification for -----
- D-14 Vehicle Registration for 1996 Chevrolet Camaro
- D-15 Vehicle Registration for 1995 Chevrolet Blazer
- D-16 Registration for 1997 Fleetwood Mobile Home
- D-17 Vehicle Registration for 2007 Harley Davidson Motorcycle
- D-18 Vehicle Registration for 1986 Ford Escort
- D-19 Vehicle Registration for 1995 Kawasaki KLF220 All Terrain Vehicle

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) In January 2009, the Department received an anonymous complaint alleging that Claimant's estranged husband, ----, was residing in her home. An investigation was conducted by Criminal Investigator, ----, who verified ----was currently in the home. - ----and his income from ----were added to Claimant's case. A termination letter dated November 17, 2009 was issued by the Department which read in pertinent parts (D-3):

Your SNAP benefits will stop. You will not receive this benefit after November 2009. Income is too much for you to receive benefits.

- 2) ---- gave testimony regarding the investigation into Claimant's household composition. ---- stated he interviewed two (2) neighbors of Claimant's in September 2009 who both stated ----and Claimant had been living together for several years.

---- obtained verification from the [REDACTED] WV postmaster showing mail for ----as delivered at Claimant's address, [REDACTED] (D-8). An employer's statement from ----was obtained showing ----address as [REDACTED] ----(D-9). Attendance Verification for ---- that was provided by [REDACTED] Elementary/Middle School listed Claimant and ----as the parents with an address of [REDACTED] ----(D-10).

- 3) ---- produced copies of Claimant's and ----driver's licenses and vehicle registrations from the Department of Motor Vehicles (DMV). According to DMV, a mobile home and five (5) vehicles registered to ----show his address as HC 83, ----(D-12, D-13, D-14, D-15, D-16, D-17, D-18 and D-19). One of these vehicles, a 1996 Chevrolet Camaro was titled as recently as January 2009 (D-14).

- 4) On March 15, 2010 Claimant requested assistance with an electric termination from the [REDACTED] County Family Resource Network. On the application, Claimant indicated her income from a logging business had been reduced and payments should resume as normal in the spring (D-11).

- 5) The Department contends that ----and Claimant have been residing in the same household and therefore must be included in the same SNAP Assistance Group. The addition of ----earned income resulted in the proposed termination of Claimant's SNAP benefits.

- 6) Claimant testified that she and her husband have been separated since 2003. ----resides in a mobile home adjacent to her home. Claimant stated ----visits their children in the evenings, usually for two (2) hours. Claimant stated he does not stay the night and they have not had intimate relations since their separation.

Claimant stated her mailing address is [REDACTED] Box ---- and her husband's is [REDACTED] ---- which are separate mail boxes. Claimant stated they file their taxes jointly, with ---- claiming the children as dependants, as per the advice of their tax preparer. Claimant stated the property is surrounded by pine trees and the neighbors would not have a clear view of her residence and would have no knowledge of her household's circumstances.

7) -----, ----- father, testified that Claimant and his son do not live together. He stated that he gave his son an acre of his property for -----'s mobile home. -----stated -----'s mobile home and Claimant's house are about 100 yards from each other with a fence separating their residences. -----stated he and Claimant share a mail box, -----and -----'s box number is -----. He stated ----- visits the children, sometimes at his house, and sometimes at Claimant's.

8) WV Income Maintenance Manual § 9.1 A(1) states:

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

9) WV Income Maintenance Manual § 9.1 A(2) states:

Spouses who live together must be in the same AG. There are no exceptions.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that spouses who reside together in the same household must be included in the same SNAP Assistance Group.
- 2) The documentation obtained from ----- employer, the Department of Motor Vehicles and [REDACTED] Elementary/Middle School list ----- address as -----Claimant has a separate address, -----.
- 3) The evidence produced by the Department was inconclusive in establishing ----- presence in Claimant's household.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to terminate Claimant's SNAP benefits due to excessive income.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 18th day of May 2010.

**Kristi Logan
State Hearing Officer
Member, Board of Review**