



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

Martha Yeager Walker
Secretary

October 22, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held August 19, 2010. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your Supplemental Nutrition Assistance Program (SNAP) benefits due to findings by the Front-End Fraud Unit (FEFU) that you lived with your wife.

In arriving at a decision, the State Hearings 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 program is based on current policy and regulations. These regulations provide that a group of individuals who live together, and for whom food is customarily purchased and prepared together must be included in the same SNAP Assistance Group (West Virginia Income Maintenance Manual § 9.1 A).

The information submitted at your hearing revealed that you and your ex-wife live together and purchase and prepare your meals together. As such, you are required by policy to be in the same Assistance Group.

It is the decision of the State Hearings Officer to **Uphold** the proposal of the Department to terminate your SNAP benefits and place you into your ex-wife's assistance group.

Sincerely,

Stephen M. Baisden
State Hearings Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Henrietta Holman, Economic Service Supervisor

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

-----,
Claimant,

v.

Action Number: 10-BOR-991

**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 October 22, 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 at the [REDACTED] County Office of the WV Department of Health and Human Resources (DHHR) in [REDACTED] WV, on August 19, 2010, on a timely appeal filed March 11, 2010.

II. PROGRAM PURPOSE:

The Program entitled the Supplemental Nutrition Assistance Program, or SNAP, is administered by the West Virginia Department of Health & Human Resources (DHHR.)

The purpose of the Supplemental Nutrition Assistance Program 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 EBT 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
-----, Claimant's spouse and witness

Henrietta Holman, Economic Service Supervisor, Department's representative
Ellis Bryson, Department's witness

Presiding at the Hearing was Stephen M. Baisden, State Hearing Officer and a member of the Board of Review.

All participants were placed under oath at the beginning of the hearing.

IV. QUESTIONS 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 Summary
- D-2 Print-out of case comments made in the SNAP benefits case of Claimant's spouse on February 12, 2010 and January 26, 2010
- D-3 Print-out of case comments made in Claimant's SNAP benefits case on March 11 and 12, 2010
- D-4 Statement obtained by Front-End Fraud Specialist on February 25, 2010
- D-5 Statement obtained by Front-End Fraud Specialist on April 15, 2009
- D-6 Print-out from the WV Department of Motor Vehicles indicating Driver's License information for Claimant's spouse
- D-8 Print-out from the WV Department of Motor Vehicles indicating Driver's License information for Claimant
- D-9 Front-End Fraud Unit investigative findings dated March 5, 2010

Claimants' Exhibits:

- C-1 Copy of deed made on June 1, 2009, indicating Claimant and Spouse jointly own certain real property in ██████████ County, WV
- C-2 Copy of electricity bill from Appalachian Power to Claimant, dated August 3, 2010
- C-3 Copy of electricity bill from Appalachian Power to Claimant's spouse, dated July 30, 2010 and August 3, 2010

VII. FINDINGS OF FACT:

- 1) On January 8, 2010, the Department received a telephone complaint that Claimant and his wife, reported to be separated, were living in the same home while receiving SNAP benefits in separate assistance groups (AGs.) The complaint was forwarded to the Front-End Fraud Unit (FEFU) for investigation.
- 2) On March 5, 2010, The FEFU investigator for McDowell County, WV, submitted to Department's representative his investigation findings. (Exhibit D-9.) He concluded that Claimant and his spouse were married and resided together, based on statements from other residents who live in Claimant's community.
- 3) On March 9, 2010, a worker in the ██████████ County office of the WV DHHR recorded that she acted on the FEFU findings by closing Claimant's SNAP benefits case

and adding him to the AG of his spouse. (Exhibit D-2.) On March 11, 2010, another worker recorded that Claimant requested a fair hearing protesting this action. (Exhibit D-3.)

- 4) During the hearing, Department's representative testified that the decision to close Claimant's case was based upon the FEFU investigation and upon statements made by Claimant's spouse to a worker and recorded on March 11, 2010. (Exhibit D-2.) These statements indicated that Claimant and spouse had purchased and subsequently sold certain personal property together.
- 5) Department's witness Ellis Bryson, the Front-End Fraud (FEF) Specialist who investigated the allegations, testified that he interviewed a member of the community in which Claimant and spouse lived on February 25, 2010. He testified that he obtained a sworn statement from this interviewee, and submitted this statement as part of his findings. (Exhibit D-4.) Department's witness testified that he had previously investigated Claimant and spouse for receiving SNAP benefits in two separate AGs while they were living together. He submitted a sworn statement with another community member made on April 15, 2009. (Exhibit D-5.) Both of these statements report that Claimant and spouse live together in the same home.
- 6) Claimant testified that he and his wife are separated. He stated that they live in two separate dwellings on the same parcel of land, and that the two dwellings are approximately 75 feet apart. He stated that he and his spouse are joint owners of the land and the homes. He submitted a copy of the deed to this real property as verification of their joint ownership. (Exhibit C-1.) He testified that he and his wife have separate accounts with their utility providers. As verification of this, he submitted an electricity bill from Appalachian Electric Power (AEP) in his name (Exhibit C-2), listing his mailing address as "-----, [REDACTED] WV." He also submitted an electricity bill from AEP in his spouse's name (Exhibit C-3), listing her mailing address as [REDACTED] WV." He testified that during his marriage, he and his spouse have been separated and have reconciled several times. He added that they although they are currently separated, it is not a legal separation and that they are attempting to "work things out" in their relationship. Claimant's spouse testified that the statements submitted by the FEF Specialist were from individuals in their community with whom she and Claimant have had personal difficulties. She added that the individuals who made these statements were motivated by these difficulties into making false allegations against Claimant and her.

- 7) WV Income Maintenance Manual Chapter 9, §1.A.1 states:

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

WV Income Maintenance Manual Chapter 9, §1.A.1.b(2) states:

The following individuals who live together must be in the same AG, even if they do not purchase and prepare meals together:

- Spouses are individuals who are married to each other under state law . . .

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that individuals who are married under state law and who reside together in the same household must be in the same SNAP Assistance Group.
- 2) Claimant's assertion that he lives separately from his spouse must be viewed with some skepticism in light of the facts that both he and his spouse jointly own the property upon which the two houses in question are situated, and that they have purchased and disposed of certain personal property together.
- 3) The preponderance of evidence shows that Claimant and spouse reside together. The Department acted correctly to close Claimant's SNAP benefits case and add Claimant to his spouse's SNAP assistance group based upon the investigation findings from the Front-End Fraud Unit.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to terminate Claimant's SNAP benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 22nd day of October 2010.

Stephen M. Baisden
State Hearing Officer