



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
203 E. Third Avenue  
Williamson, WV 25661

Earl Ray Tomblin  
Governor

Michael J. Lewis, M.D., Ph.D.  
Cabinet Secretary

November 16, 2011

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Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held November 1, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to add your ex-husband to your SNAP assistance group due to findings by the Front-End Fraud Unit (FEFU) that he lived with you.

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-husband live together with your children. 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 add your ex-husband to your SNAP benefit assistance group.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review  
Sheila Napier, ESW, WV DHHR, [REDACTED] County Office

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

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**Claimant,**

**v.**

**ACTION NO: 11-BOR-1970**

**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 November 16, 2011 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 November 1, 2011, on a timely appeal filed September 20, 2011.

**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 ex-husband and witness

-----, Claimant's witness

Sheila Napier, Economic Service Worker, Department's representative  
Tammy Drumheller, Department's witness  
Herman White, Department's witness

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

All participants offering testimony were placed under oath.

#### **IV. QUESTIONS TO BE DECIDED:**

The question to be decided is whether or not the Department's proposal to add Claimant's ex-husband to her SNAP assistance group is correct.

#### **V. APPLICABLE POLICY:**

WV Income Maintenance Manual § 9.1 A

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

##### **Department's Exhibits:**

- D-1 Front-End Fraud Unit (FEFU) Investigative Findings, dated September 2, 2011
- D-2 IG-IFM-USP, statement of address verification from postmaster of Claimant's post office
- D-3 IG-IFM-USP, statement of address verification from postmaster of Claimant's ex-husband's post office
- D-4 Print-out from the WV Department of Motor Vehicles indicating Driver's License information for Claimant's husband
- D-5 Present Danger Assessment from WV DHHR, Children's Protective Services Unit, [REDACTED] County Office, dated October 1, 2010
- D-6 Primary Contact Information form from [REDACTED] County Schools
- D-7 Print-out from the WV DHHR indicating the mailing address reported by Claimant's ex-husband
- D-8 Print-out from Social Security Administration indicating mailing address for Claimant's ex-husband
- D-9 WV Income Maintenance Manual Chapter 9, section 1.A.1

##### **Claimants' Exhibits:**

- C-1 Final Divorce Order from the Family Court of [REDACTED] County WV, dated August 28, 2006
- C-2 Copy of identification card for Claimant, issued by the WV Department of Motor Vehicles on March 12, 2008
- C-3 Copy of letter from WV DHHR to Claimant, dated October 7, 2010
- C-4 Copy of letter from WV DHHR to Claimant's ex-spouse, dated October 24, 2011

C-5 In-Home Safety Plan from WV DHHR, Children's Protective Services Unit, [REDACTED]  
County Office, dated October 26, 2010  
C-6 Information pamphlet concerning multiple sclerosis from the Multiple Sclerosis  
Foundation

## **VII. FINDINGS OF FACT:**

- 1) On June 29, 2011, the Department received a telephone complaint that Claimant and her ex-husband 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 in July, 2011.
- 2) On September 2, 2011, The FEFU investigator for [REDACTED] County, WV, submitted to Department's representative her investigation findings. (Exhibit D-1.) The investigator concluded that Claimant and her ex-husband resided together, based on statements from residents who live in Claimant's community and on corroborative evidence.
- 3) Department's representative stated that on September 14, 2011, she acted on the FEFU findings by adding Claimant's ex-husband to her SNAP assistance group (AG), resulting in a reduction of Claimant's SNAP benefit amount. She stated that on September 23, 2011, Claimant requested a fair hearing on the Department's decision to reduce her SNAP benefit amount.
- 4) Department's witness Tammy Drumheller, the Front-End Fraud (FEF) Specialist who investigated the allegations, testified that she obtained from the Postmaster at Claimant's post office an IG-IFM-USP, a Postmaster's address verification statement for Claimant and her ex-husband. (Exhibits D-2 and D-3.) These documents indicate that Claimant and her ex-husband both received their mail at [REDACTED] WV, and that they both listed their street address as [REDACTED] WV. Department's witness submitted into evidence a print-out from the WV Department of Motor Vehicles (DMV) (Exhibit D-4) indicating Claimant's ex-husband listed his mailing address as [REDACTED] [REDACTED] on his WV Driver's License. She submitted a copy of a WV DHHR, Children's Protective Services (CPS) Unit report known as a Present Danger Assessment (Exhibit D-5), wherein a social worker from the WV DHHR reported the results of an interview completed with Claimant and her ex-husband on October 1, 2010. The report states in part, "Worker also made face-to-face contact with [Claimant and ex-husband], at their home, also on [REDACTED] WV."
- 5) Claimant testified that she and her ex-husband do not live together. She testified that she suffers from multiple sclerosis and has numerous health problems as a result. She stated that one such problem is that she is legally blind and therefore cannot operate a motor vehicle. She stated that her ex-husband, who lives near her home, takes her shopping and to physician's appointments, and transports their children to school and various activities. She submitted into evidence her divorce order from the [REDACTED] County WV Family Court,

- 6) Claimant's ex-husband testified that he lives with his mother, not with his ex-wife. He testified that he leaves his vehicle at Claimant's home in order to make it available for anyone in Claimant's family in case Claimant had a medical emergency related to her multiple sclerosis and had to get to a hospital quickly. He stated that he spends a great deal of time at Claimant's home in order to help Claimant because of her medical condition, and in order to help take care of their children. He submitted into evidence a letter from the WV DHHR to himself indicating his mailing address is now [REDACTED] WV. (Exhibit C-4.)
- 7) Department's representative called a rebuttal witness, a neighbor and relative of the Claimant. The witness testified that he lived near Claimant's residence, but that he did not have a line-of-sight view of her home. However, he testified, he is the first cousin of Claimant's mother and his brother is a next-door neighbor to Claimant, and that he has known Claimant all of her life. He testified that he visits his brother often and Claimant, her ex-husband and their children visit his brother's home as well. He testified that Claimant and her ex-husband live together. He stated that within the previous few months, he was visiting his brother while Claimant's ex-husband was there, and he heard the ex-husband say that he was going "home" or needed to take his children "home," "home" being Claimant's house.
- 8) West Virginia Income Maintenance Manual, Chapter 9.1.A.1(b) states in pertinent part:

Individuals or groups of individuals living with others, but who customarily purchase food and prepare meals separately are an [Assistance group or] AG. Customarily purchasing and preparing food separately means that, during the certification period, the client actually purchases and prepares his food separately from the others in the household over 50% of the time, except for an occasional shared meal. This occasional sharing for food does not interfere with his separate AG status. EXCEPTION: The following individuals who live together must be in the same AG, even if they do not purchase and prepare meals together:

...

  - Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as that parent.

### **VIII. CONCLUSIONS OF LAW:**

- 1) Policy dictates that a SNAP recipient may not receive SNAP benefits in a separate assistance group from his or her children if they live in the same household. Therefore if a

divorced couple live together and have common children, both parents must be included in the same SNAP assistance group.

- 2) Department's representative submitted evidence to indicate Claimant and her ex-husband live together. She submitted statements from Claimant's Postmaster indicating Claimant and her ex-husband reported that they resided at the same street address. She submitted documentation from the WV Department of Motor Vehicles indicating Claimant's ex-husband listed Claimant's home as his physical address on his driver's license. She submitted a report from the WV DHHR, Children's Protective Services Unit which indicated they lived together. She called as witness a neighbor and relative of Claimant who had first-hand knowledge of their living arrangements.
- 3) Claimant and her ex-husband submitted evidence that they were divorced and that they had separate mailing addresses.
- 4) The preponderance of evidence shows that Claimant and spouse reside together. The Department acted correctly to add Claimant's ex-husband to her 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 include Claimant's ex-husband in her SNAP assistance group.

**X. RIGHT OF APPEAL:**

See Attachment

**XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 16<sup>th</sup> day of November 2011.**

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**Stephen M. Baisden**  
**State Hearing Officer**