



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

Earl Ray Tomblin
Governor

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

June 7, 2011

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held May 6, 2011. Your hearing request was based on the Department of Health and Human Resources' proposal to terminate your Supplemental Nutrition Assistance Program (SNAP) benefits and SSI-Related Medicaid for failure to verify income.

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 SNAP and SSI-Related Medicaid is based on current policy and regulations. These regulations provide that married individuals residing in the same household must be included in the same SNAP assistance group. The income of an ineligible spouse of a Medicaid member is deemed to the eligible Medicaid spouse (WV Income Maintenance Manual § 9.1 A and 9.19 B).

The information submitted at your hearing failed to establish ----- as residing in your household.

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

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Chairman, Board of Review
Murriel Hylton, Economic Service Supervisor

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

IN RE: -----,

Claimant,

v.

ACTION NO.: 11-BOR-746-747

**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 May 6, 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 on a timely appeal, filed November 17, 2010.

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

II. PROGRAMS PURPOSE:

The programs entitled SNAP and SSI-Related Medicaid are administered by the West Virginia Department of Health and Human Resources.

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 SSI Related Medicaid Program is a segment of the Medicaid Program available to individuals who meet the requirement of categorical relatedness by qualifying as either aged disabled, or blind as those terms are defined by the Social Security Administration for purposes of eligibility for SSI.

III. PARTICIPANTS:

-----, Claimant
Murriel Hylton, Economic Service Supervisor
Tammi Cooley, Front-End Fraud Investigator

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

This hearing was held by videoconference.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department's proposal to terminate Claimant's SNAP benefits and SSI-Related Medicaid was correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 9.1 A and 9.19 B

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing/Grievance Request Notification
- D-2 Hearing Request received November 17, 2010
- D-3 Notification Letter dated November 9, 2010
- D-4 Verification Request Form dated October 28, 2010, Correspondence from Claimant dated November 4, 2010 and Divorce Order dated December 28, 2010
- D-5 Pre-Hearing Conference Appointment Letter dated November 18, 2010
- D-6 WV Income Maintenance Manual § 4.1 and 10.2 A-B
- D-7 Department's Summary

VII. FINDINGS OF FACT:

- 1) Claimant had been receiving SNAP and SSI-Related Medicaid based on a one (1) person Assistance Group (AG). On October 28, 2010, an investigative report by the Front-End Fraud Unit was received indicating that Claimant's wife, ----, was residing in his household (D-7).
- 2) A request for verification of ----'s income was issued by the Department to Claimant on October 28, 2010 with the information due by November 7, 2010 (D-4). Claimant responded to the request for verification with a letter dated November 4, 2010 which read in pertinent part (D-4):

I have no income coming from ----. She does not live here with me, she use [sic] to come by and visit me and check on my health but doesn't do that no more.

I have no way of getting in contact with her whatsoever.

Claimant's SNAP and SSI-Related Medicaid was terminated for his failure to verify -----'s income (D-3).

- 3) Tammi Cooley, Front-End Fraud Investigator, testified to the investigation she conducted on Claimant. Ms. Cooley alleges that ----- lived with Claimant from July 2009 through the conclusion of the investigation in October 2010. Ms. Cooley stated --- -- listed Claimant's address as her own with her employer, of which she started employment in October 2010. Ms. Cooley stated Claimant and -----had a jointly owned vehicle with the registration showing Claimant's address. ----- also renewed her drivers' license in 2008, again using Claimant's address.

Ms. Cooley testified that she received two (2) statements from line-of-sight neighbors of Claimant verifying ----- resided with Claimant. Additionally, Claimant's landlord signed a statement placing ----- in Claimant's household.

- 4) The Department contends that Claimant's wife was residing in his household while he was receiving SNAP and Medicaid. Per policy, -----'s income must be considered in determining Claimant's eligibility for Medicaid and she was required to be included in his SNAP AG. Claimant's case was closed when he failed to verify her income.
- 5) Claimant testified that he and his wife had separate residences since 2009. Claimant stated ----- rented an apartment on -----, but used his address to receive mail. Claimant stated he has health problems and ----- would visit to check on him. He testified that she would spend 2-3 nights a week with him and admitted to continuing a marital relationship with her during that time period. Claimant stated he was caught with another woman and ----- ended their relationship. Their divorce was finalized in December 2010 (D-4).

Claimant stated he titled his vehicle jointly with ----- for insurance purposes. His landlord visited his home when he received the verification request from the Department and he observed ----- there visiting. Claimant stated his landlord advised him that he would have to complete the form showing ----- as a household member since she was present that day.

- 6) WV Income Maintenance Manual § 9.1 A(2) states [for SNAP]:

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.

- 7) WV Income Maintenance Manual § 9.19 B(1)c states [for SSI-Related Medicaid]:

The Income Group

Eligible Individual With Ineligible Spouse No Medicaid Long Term Care Services

Consider the income of the ineligible spouse to determine if it must be deemed. See Chapter 10 for how to determine if the spouse's income is deemed.

VIII. CONCLUSIONS OF LAW:

- 1) Policy holds that married individuals residing in the same household must be included in the same SNAP assistance group. Policy also dictates that the income of an ineligible spouse of a Medicaid member is deemed and considered in determining eligibility.
- 2) The Department alleges that Claimant's wife resided in his household from July 2009 through October 2010. When Claimant failed to verify her income, his SNAP and Medicaid benefits were terminated.
- 3) When Claimant was asked to provide his wife's income, Claimant responded timely in saying she did not reside with him or contribute financially to him. Claimant admitted that his wife visited him weekly but that they maintained separate residences. The Department failed to produce sufficient evidence establishing Claimant's wife as a member of his household. Claimant was not required to verify his wife's income when she was not residing in his household.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to terminate Claimant's 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 6th day of June 2011.

Kristi Logan
State Hearing Officer