



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

June 15, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held May 31, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your SNAP benefits due to your failure to verify certain information.

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 the SNAP program is based on current policy and regulations. These regulations provide that natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same assistance group as that parent. (West Virginia Income Maintenance Manual §9.1.A.1.b).

The information submitted at your hearing failed to demonstrate that ----- has been living with you and your children. As such, your SNAP benefits will be reinstated.

It is the decision of the State Hearing Officer to **Reverse** the decision of the Department to terminate your SNAP benefits because ----- did not verify his earned income.

Sincerely,

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

cc: Erika Young, Chairman, Board of Review
Tera Pendleton, WV DHHR, [REDACTED] County Office

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

-----,

Claimant,

v.

ACTION NO: 12-BOR-1099

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Claimant.

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 Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This Fair Hearing was convened by telephone conference call on May 31, 2012, on a timely appeal filed April 17, 2012.

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

Tera Pendleton, WV DHHR, [REDACTED] County Office, Department's representative
Maureen Rogers, WV DHHR, [REDACTED] County Office, 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. QUESTION TO BE DECIDED:

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

V. APPLICABLE POLICY:

WV Income Maintenance Manual §9.1.A and §10.4

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made from January 27, 2012, through April 18, 2012, in Claimant's case
- D-2 Letter from Department to Claimant, dated January 30, 2012
- D-3 Letter from Department to Claimant, dated February 3, 2012, and results of telephone SNAP review/redetermination dated January 23, 2012
- D-4 Screen prints from RAPIDS showing household composition, employment, and SNAP receipt history for Claimant's household
- D-5 Letter from Department to Claimant, dated February 7, 2012, with mail-in Medicaid application dated January 23, 2012, and paycheck stubs attached
- D-6 Mail-in Medicaid application dated April 5, 2012, and paycheck stubs
- D-7 CMCC Screen print from RAPIDS System showing Income Maintenance worker case comments made from January 11, 2011, through August 18, 2011, in Claimant's case

VII. FINDINGS OF FACT:

- 1) Department's Representative stated that on January 27, 2012, the Department received "a verbal report" that -----, the father of Claimant's children, was living in the home with Claimant. Claimant was receiving SNAP benefits at this time and reported that the only persons in her SNAP assistance group (AG) were herself and her children. The Claimant's SNAP case was temporarily suspended on January 27, until Claimant and the

children's father could verify his earned income. Claimant's SNAP benefits were due for an eligibility review and benefit redetermination in February, 2012.

- 2) Department's Representative stated that on February 3, 2012, Claimant completed a telephone SNAP review. She stated Claimant reported on the review that her household consisted of herself and her three children. She stated that Claimant submitted a phone review form wherein she listed her household composition, income and shelter/utility costs. (Exhibit D-3.) She stated that Claimant signed and dated the form and provided verification of her earnings in the form of paycheck stubs. She stated that an eligibility worker at the Kanawha County office of the WV DHHR processed the review, but recorded in Claimant's Case Comments (Exhibit D-1) that she continued to suspend the SNAP benefits because Claimant did not provide verification of ----- earnings. Department's Representative submitted into evidence screen prints from the RAPIDS benefits issuance computer system indicating that Claimant has not provided verification of ----- earnings, and because of this she has not received SNAP benefits since February 2012. (Exhibit D-4.)
- 3) Department's Representative stated that Claimant submitted a mail-in review form for her children's Medicaid on February 1, 2012. (Exhibit D-5.) She stated that Claimant again reported only herself and her children in the household and provided verification of her earned income. Department's Representative stated that Claimant submitted a Pregnant Person Medicaid application for herself, signed on April 5, 2012. (Exhibit D-6.) She again reported only herself and her children in the household and provided verification of her earned income. She stated that the worker who processed this application removed ----- from Claimant's AG, but she determined that the worker had done this in error and added him back to Claimant's AG on April 18, 2012. (Exhibit D-1, page 5.)
- 4) Department's Witness testified that ----- was added to Claimant's SNAP AG due to information supplied by the Bureau for Child Support Enforcement. She testified that in 2011, the DHHR's Front-End Fraud Unit (FEFU) investigated Claimant's case and determined that ----- lived in Claimant's home. Department's Representative submitted as evidence case recordings from Claimant's SNAP case made in 2011, to support the Department's contention that ----- lived in the Claimant's home. (Exhibit D-7.) The only portion of these recordings that deal with the FEFU investigation is a recording made by an Economic Service Worker and dated January 12, 2011. It states as follows:

Added ----- to case and pended for his income per FEFU. He advised FEFU that he has lived there for several months. Case pended.
- 5) Claimant testified that ----- does not live in her home, and she has communicated this to the Department on several occasions. She testified that ----- lives in [REDACTED] and she provided the Department a copy of his valid [REDACTED] Driver's License. She stated that she and ----- have children together, and their oldest child has a blood disorder. She said that this child is hospitalized frequently because of this disorder, and --- comes from [REDACTED] to be with him when this happens. She stated that ----- works at a business owned by his step-father, and as such has the ability to leave work without

pay whenever he is needed. She added that because of this, he is able to travel from [REDACTED] very often to be with his children.

- 6) West Virginia Income Maintenance Manual, Chapter 9.1.A.1(b) states in pertinent part:

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 an unmarried couple live together and have common children, both parents must be included in the same SNAP assistance group.
- 2) The Department did not provide substantial documentation to support its contention that ----- lived in Claimant's home. The Department's Witness testified that a Front-End Fraud Unit (FEFU) investigation revealed ----- was in the home, but the only documentation regarding this was a year-old recording by an Economic Service Worker stating the absent parent was added to Claimant's assistance group "per FEFU."
- 3) Because the Department did not support its contention that -----lived in Claimant's home, the Department acted incorrectly to terminate Claimant's SNAP benefits for failing to verify his income.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the proposal of the Department to terminate Claimant's SNAP benefits because -----did not verify the amount of his earned income.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 15th day of June 2012.

**Stephen M. Baisden
State Hearing Officer**