



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
4190 Washington Street, West
Charleston, WV 25313**

**Earl Ray Tomblin
Governor**

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

June 7, 2012

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held June 5, 2012. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your Supplemental Nutrition Assistance Program [SNAP] benefits and terminate your eligibility for AFDC (Aid to Families With Dependent Children) – Related Medicaid.

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 and benefit levels for SNAP benefits and AFDC-Related Medicaid are based on current policy and regulations. Some of these regulations state that for SNAP, individuals who both live together and purchase and prepare their meals together must be included in the same SNAP AG (Assistance Group). Individuals who are married and living together must be included in the same assistance group for SNAP regardless of whether they purchase and prepare their meals together. (West Virginia Income Maintenance Manual §9.1) For Medicaid, otherwise married parents who live together are in the same AG. (West Virginia Income Maintenance Manual §9.18)

The information submitted at your hearing supports that your husband, -----, lives in your household. He must be included, along with his income, in both your SNAP and AFDC-Related Medicaid cases to determine eligibility.

It is the decision of the State Hearing Officer to uphold the Department's action in including the Claimant's husband in both her SNAP and AFDC-Related Medicaid cases which caused the Claimant's SNAP to be reduced and her AFDC-Related Medicaid to be terminated.

Sincerely,

Cheryl Henson
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review / Tera Pendleton, Kanawha DHHR

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

IN RE: -----,

Claimant,

v.

**ACTION NO.: 12-BOR-1155 SNAP
12-BOR-1156 MED.**

**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 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. The hearing was convened on June 5, 2012.

II. PROGRAM PURPOSE:

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 Medicaid categorically related to Aid to Families with Dependent Children Program (AFDC-Related Medicaid) is designed to provide medical assistance to eligible families with children from the fetal stage to age 18. These dependent children must be deprived of parental support due to the death, continued absence, incapacity, or unemployment of the parents. In addition, the family must meet financial eligibility criteria.

III. PARTICIPANTS:

-----, Claimant

-----, Claimant's witness

Tera Pendleton, Department representative

Tammy Drumheller, Department's witness

-----, Department's witness (participated by telephone)

-----, Department's witness (participated by telephone)

Presiding at the Hearing was Cheryl Henson, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The questions to be decided are whether the Department was correct in the decisions to reduce the Claimant's SNAP benefits and to terminate her AFDC-Related Medicaid eligibility.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual§ 9.1, and 9.18

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Case comments from Department's computer system dated from April 12, 2012 through May 15, 2012
- D-2 Notice of Decision dated April 13, 2012
- D-3 Various screens from Department's computer screen
- D-4 Civil Summons dated February 27, 2012
- D-5 Health Evaluation Report dated February 23, 2011
- D-6 Vehicle Inquiry screen from Department's cross-match with Department of Motor Vehicles
- D-7 Appalachian Power bill dated April 9, 2012

Claimant's Exhibits:

None

VII. FINDINGS OF FACT:

- 1) The Claimant was receiving SNAP and AFDC-Related Medicaid benefits during April 2012 when the Department determined that her husband, -----, was living in her household. The Department added him to the Claimant's SNAP and AFDC-Related Medicaid cases and sent

her a Notice of Decision (D-2) on or about April 13, 2012, which included the following pertinent information:

ACTION: Your SNAP will decrease from \$365.00 to \$38.00 effective 05-01-12.

REASON: Income has increased. \$43.00 – -----

ACTION: Your AFDC Related Medicaid benefits will stop. You will not receive this benefit after APRIL 2012.

REASON: Income is more than the income limit for you to receive benefits. The following individuals are ineligible: -----

- 2) The parties agree that the issue for this hearing involves whether the Claimant's husband, -----, lives in her household. The Claimant does not dispute the results of his being added and just claims that the Department should not have added him to the cases because he does not live with her. She also does not dispute that they are married.
- 3) The Department contends that it conducted an investigation into the household composition of the Claimant's home and determined that her husband, -----, lives with her at -----, West Virginia.
- 4) Tammy Drumheller is a Front-End Fraud Unit (FEFU) Investigator for the Department. She stated that she went to the Claimant's neighborhood and obtained two sworn written statements from neighbors. Those two witnesses, ----- and -----, testified by telephone during the hearing and claimed that they know the Claimant's husband, -----, lives in the Claimant's home. ----- stated that she sees the couple every day. ----- stated that he knows that ----- lives with the Claimant and that he sees them going "in and out" in their vehicle. He added that he can see their home from his residence. Both ----- and ----- conceded on cross-examination that they are involved in a dispute with the Claimant and -----.

Ms. Drumheller stated that during her investigation she found that ----- was receiving a type of Medicaid from the Department and that he listed his address the same as the Claimant's address. She did not provide a date for this finding. She also added that she found in reviewing a computer cross-match with the Social Security Administration that ----- receives his Social Security benefits at -----, West Virginia – the same address also utilized by the Claimant.

Ms. Drumheller added that she obtained a copy (D-4) of a Civil Summons from the ----- County, West Virginia, Magistrate Court, which shows that both the Claimant and ----- were listed as Plaintiffs in a court action. This document (D-4) is dated February 27, 2012, and shows that the couple is listed as living at the same address, -----, West Virginia. The Claimant stated that she listed -----' name on the complaint because he gave her some property and he was involved in the complaint because of this act.

Additionally, the Department provided as evidence a Health Evaluation Report (D-5) dated February 23, 2011, from the ----- Health Department, which lists that ----- lives at -----, West Virginia. It is not clear if the Claimant ever utilized this address as her own.

The Department also provided as evidence a computer screen printout (D-6) from the Department of Motor Vehicles' records which shows that as of September 24, 1999, ----- titled a vehicle trailer in his name utilizing the same address as the Claimant.

Further, the Department provided as evidence a copy (D-7) of an electric bill from Appalachian Power Company dated April 9, 2012, which shows that the service address is in -----' name and the bill is sent "C/O -----."

- 5) The Claimant testified that she lives at ----- and that ----- lives at -----; however, she provided no written evidence in support of this claim. She stated that she lives in the Claimant's home, and he lives in a camper in the same area. The Claimant stated that ----- and ----- are relatives of ----- and that they are involved in an ongoing dispute with both her and ----- . She contends that they are making false claims against her.
- 6) ----- stated that he does not live with the Claimant, and that he lives in the camper described by the Claimant. He added that he does not have utilities at the camper; no water, no electricity, no heat or air conditioning. He stated that he bathes and gets water from the Claimant's residence. The Department's witness, -----, stated that the camper in question has only been at the residence for "about a month."
- 7) The West Virginia Department of Health and Human Resources Income Maintenance Manual §9.1.A, provides that individuals who both live together and purchase and prepare meals together must be included in the same assistance group (AG) for SNAP. Additionally, this policy provides that when individuals are married and living together, they cannot be a separate assistance group regardless of whether they purchase and prepare meals together.
- 8) The West Virginia Department of Health and Human Resources Income Maintenance Manual §9.18, provides that otherwise eligible married parents who live together are required to be in the same AG and their income must be counted for AFDC-Related Medicaid.

VIII. CONCLUSIONS OF LAW:

- 1) Policy specifies that individuals who are married and live together must be included in the same assistance group for SNAP regardless of whether they purchase and prepare their meals together.
- 2) Policy also specifies that for AFDC-Related Medicaid, married parents must be included in the AG and their income must be counted.
- 3) The totality of the evidence supports that ----- lives with the Claimant. Because they are married, ----- must be included in both the SNAP and AFDC-Related AGs and his income must be counted.

- 4) Based on the information provided during this hearing, the Department was correct in its decision to add ----- to the Claimant's SNAP and AFDC-Related Medicaid cases, and in counting his income in determining eligibility.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Department in adding ----- to the Claimant's SNAP and AFDC-Related Medicaid cases and in counting his income in determining eligibility.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 7th Day of June 2012.

**Cheryl Henson
State Hearing Officer**