



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313
(304) 746-2360, ext. 2227

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

March 25, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1332

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Donna L. Toler
State Hearing Officer
Member, State Board of Review

Encl: Claimant's Recourse to Hearing Decision
Form IG-BR-29

cc: Tera Pendleton, Economic Service Worker

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

██████████,

Claimant,

v.

Action Number: 15-BOR-1332

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

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision 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 and held on March 17, 2015, on an appeal filed February 23, 2015.

The matter before the Hearing Officer arises from the November 25, 2014 decision by the Respondent to terminate the Claimant's Supplemental Nutrition Assistance Program (SNAP) case and add her to her husband's SNAP assistance group.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker. The Claimant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case comments computer screen print dated October 14, 2014 through February 3, 2015
- D-2 Correspondence from Department of Health and Human Resources ██████████ to the Claimant dated November 25, 2014
- D-3 Case Benefit Summary computer screen print from March 2014 through December 2014
- D-4 Referral and Communications Form (Social Services - Income Maintenance) dated October 7, 2014; Bureau for Child Support Enforcement (BCSE) Narrative dated September 29 and 30, 2014; BCSE Caretaker Address sheet as of July 2014; BCSE Absent Parent Address sheet as of July 2014; Driver History Inquiry for ██████████, issue date September 3, 2014; Statement of ██████████ dated November 5, 2014; Facsimile from ██████████

verifying Claimant's employment and reported address; Order of Protection dated January 2015

Claimant's Exhibits:

- C-1 Copy of Claimant's West Virginia Driver's License, issue date March 16, 2015
- C-2 Agreement of Lease dated February 28, 2015

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) On or about November 25, 2014, the Claimant, a recipient of benefits, received notification that her Supplemental Nutrition Assistance Program (SNAP) benefit was being terminated. (Exhibit D-2)
- 2) On October 17, 2014, a Department worker received notification that the Claimant was residing with her husband. The worker referred the matter to the Department's Front-End Fraud Unit (FEFU) for investigation. (Exhibits D-1 and D-4)
- 3) On November 14, 2014, a Department worker documented that a report was received from FEFU to close the Claimant's SNAP case and add her to her husband's SNAP Assistance Group (AG). (Exhibit D-1)
- 4) The Department's witness, Christina Saunders, FEFU Investigator (Ms. Saunders) stated that she was assigned to investigate the Claimant's household composition and concluded that the Claimant resided with her husband at [REDACTED] in [REDACTED].
- 5) The Department provided documentation to support that the Claimant and her husband resided together, including records from the BCSE that on September 29, 2014, the Claimant's husband testified in court that he and the Claimant were married and residing in the same household located at [REDACTED]; a signed statement from the Claimant's husband dated November 5, 2014, that the Claimant resided with him; records from the Department of Motor Vehicles dated September 3, 2014, that the Claimant had reported that she resided at her husband's residence; and employment records showing that beginning October 7, 2014, the Claimant reported she resided at her husband's address of [REDACTED], with no subsequent reports of a change in address as of March 3, 2015. (Exhibit D-4)
- 6) On January 28, 2015, the Claimant submitted a change report form with a new address of [REDACTED]. (Exhibit D-1)

- 7) The Claimant testified that she moved from [REDACTED] in September or October 2014, at which time she moved in with her husband on a temporary basis. The Claimant reported that she needed a place to stay. The Claimant testified that she did not think it was fair she could not be in her own SNAP AG because her husband did not provide for her financially. The Claimant testified that she moved out of her husband's home sometime after Thanksgiving 2014, and stayed with a friend at [REDACTED] in [REDACTED], until the beginning of January 2015. The Claimant reported that sometime in the beginning of January 2015 she moved in with another friend in [REDACTED], and that she lived there for about two months.
- 8) The Claimant provided a copy of a Lease Agreement and a current West Virginia Driver's License as verification that she moved to [REDACTED] in [REDACTED], effective March 1, 2015. The Claimant testified that she did not notify the Department of her new address until the date of the hearing. (Exhibits C-1 and C-2)
- 9) The Department's representative testified that because the Claimant provided verification of her new address she could complete a new application for SNAP benefits. The Department's representative added that because the Claimant had already received benefits in her husband's case for the month of March 2015, she would not be eligible to receive benefits in her own case until April 2015.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §9.1.A.1.b(2) mandates that spouses who live together must be in the same assistance group. There are no exceptions.

DISCUSSION

SNAP policy requires husbands and wives be included in the same AG. The Claimant did not dispute that she lived with her husband at the time she applied for SNAP benefits, but that she did not think it was fair she could not have her own SNAP AG because her husband did not provide her any financial support.

The Claimant provided no evidence to support her testimony that she moved out of her husband's home and moved in with a friend located at [REDACTED], in late November or early December 2014, and then moved in with another friend who lived in [REDACTED] sometime in early January 2015. In fact, the Claimant's testimony directly conflicted with the change of address form she submitted to the Department on January 28, 2015, indicating she moved to [REDACTED] at the end of January, with no mention of an address in [REDACTED].

The preponderance of evidence establishes that the Claimant did reside in her husband's household until March 1, 2015.

CONCLUSION OF LAW

Policy in the WV Income Maintenance Manual §9.1.A.1.b(2) clearly establishes that husbands and wives must be included in the same assistance group. The Department was correct in terminating the Claimant's separate SNAP assistance group and adding her to her husband's assistance group.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's decision to add the Claimant to her husband's Supplemental Nutrition Assistance Program (SNAP) assistance group.

ENTERED this ____ day of March 2015.

Donna L. Toler
State Hearing Officer