



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

May 7, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-1621

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-1621

**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 May 5, 2015, on an appeal filed March 9, 2015.

The matter before the Hearing Officer arises from the February 25, 2015 decision by the Respondent to add the Claimant's boyfriend into the Claimant's Supplemental Nutrition Assistance Program (SNAP) Assistance Group (AG) benefits.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker. Appearing as a witness for the Department was Tammie Drumheller, Front End Fraud Unit Investigator. The Claimant appeared *pro se*. Appearing as a witness for the Claimant was ██████████, the Claimant's boyfriend. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case comments computer screen print, dated December 18, 2014 through April 3, 2015
- D-2 Household Members computer screen print, print date April 21, 2015
- D-3 Correspondence from Department of Health and Human Resources ██████████ to the Claimant, dated February 25, 2015
- D-4 Case Benefit Summary computer screen print from June 2014 through March 2015
- D-5 Department of Motor Vehicles - Vehicle System Master Inquiry computer screen prints for ██████████

- D-6 Department of Motor Vehicles - Driver History Inquiry - Driver ID computer screen print for [REDACTED]
- D-7 Statement of [REDACTED], dated January 14, 2014*
- D-8 Employment Data and Wage History report for [REDACTED]

Claimant's Exhibits:

- C-1 Photographs (set of four)

*Department's witness indicated that the date on Exhibit D-7 was incorrect and that the correct date of statement was January 14, 2015. The Claimant offered no objections.

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 February 25, 2015, the Department mailed the Claimant notification that her Supplemental Nutrition Assistance Program (SNAP) benefits were being terminated effective April 1, 2015, due to excessive income. (Exhibit D-3)
- 2) On February 24, 2015, a Department worker received notification form the Front End Fraud Unit (FEFU) that the Claimant's boyfriend was residing in her household. Upon receipt of the report, the Department worker recorded that "[absent parent] [REDACTED] [is] in [Claimant's] home. Neighbor's statement verified [household] comp. Per [Bureau of Employment Programs]: [REDACTED] wages for 3rd quarter were \$19212.13/3=6404.00 monthly . . . added him back to case . . . closed SNAP." (Exhibit D-1)
- 3) On March 3, 2015, the Claimant came to [REDACTED] Department of Health and Human Resources office to discuss her case with FEFU. Because the FEFU worker was not in the office, the Claimant was seen by the Department's representative, Tera Pendleton (Ms. Pendleton). Ms. Pendleton explained to the Claimant that the reason her boyfriend had to be added to her SNAP Assistance Group (AG) was because he was living in her home, along with having a common child. (Exhibit D-1)
- 4) Ms. Pendleton stated that once the Claimant's boyfriend was added into the SNAP AG, his income had to be added to the case as well. Ms. Pendleton indicated that the Claimant's household income exceeded the income limits for SNAP assistance, resulting in termination of the Claimant's SNAP benefits.
- 5) The Department provided documentation to support that the Claimant and her boyfriend lived together, including records from the Department of Motor Vehicles and a written statement from the Claimant's neighbor. Records from the Department of Motor

Vehicles indicated that the Claimant's boyfriend reported the same residential address as the Claimant and the signed statement of the Claimant's neighbor indicated that the Claimant and her boyfriend had lived in the house together for as long as she had lived there "about (10) ten years". (Exhibits D-5 through D-7)

- 6) The Claimant did not dispute the Department's income calculations for her boyfriend, but contended that she and her boyfriend live in separate households. The Claimant testified that she and her boyfriend have a common mailing address, but that they sleep in separate residences on her property. The Claimant testified that her boyfriend sleeps in an apartment which was built onto her detached garage. The Claimant provided photographs showing the separate building which included a pull-out bed, kitchen and bathroom. (Exhibit C-1) The Claimant reported that she and her boyfriend are in a committed relationship, and consider themselves to be a family unit. The Claimant testified that they do not share financial resources with one another, that they each pay their own expenses. The Claimant testified that the electric bill was in her name, but that her boyfriend paid his portion of the bill. No testimony was provided regarding other shelter or utility expenses. The Claimant testified that when she initially applied for SNAP benefits, the Department worker advised her that as long as she and her boyfriend resided in separate homes, she was eligible for benefits. The Claimant added that they would never attempt to commit an act of fraud and that they tried to keep everything legal for Social Security purposes. (The Claimant is a recipient of Social Security Income)
- 7) The Claimant's boyfriend, [REDACTED], testified that he and the Claimant shop for groceries together, and that they eat together as a family.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §9.1.A, provides a list of individuals who must be included in a Supplemental Nutrition Assistance Program (SNAP) Assistance Group (AG). The SNAP AG must include all eligible individuals who both live together and purchase and prepare their meals together.

West Virginia Income Maintenance Manual §9.1.A.1.b(1), requires that individuals who live together, and for whom food is customarily purchased and prepared together be defined as a SNAP AG.

DISCUSSION

The Claimant and her boyfriend share a common mailing address. The Claimant and her boyfriend testified that they, along with their common child and the Claimant's child, consider themselves to be a family unit. The Claimant stated that an apartment was built onto the detached garage in order to comply with Social Security eligibility requirements.

The Claimant testified that in order to remain eligible for Social Security benefits her boyfriend spends the days in her home and when it is time to go to bed, he sleeps in the apartment attached to garage. The Claimant and her boyfriend reported that they go grocery shopping together and that they prepare and eat their meals together. The Claimant stated that they do not share financial resources; that she pays her bills and he pays his. No testimony was provided regarding who provides the financial support of their child. The Claimant reported that the electric bill for both the house and her boyfriend's sleeping quarters is in her name.

Policy requires that individuals who live together and purchase and prepare their meals together be included in the same SNAP Assistance Group. While policy does not offer a definition for "living together", the term is synonymous with the term cohabitating, which is defined as sharing the same space. The Claimant and her boyfriend admittedly share the same space, except when it is time to sleep. In many households it is not uncommon that individuals who live together do not share the same sleeping quarters. Children often have their own bedrooms as well as other household members for a variety of reasons, including due to loud snoring or other habits which might interrupt another's sleep. By these standards, it can be determined that the Claimant and her boyfriend are living together and purchase and prepare their meals together. Policy mandates that individuals who live together and for whom food is customarily (more than 50% of the time) purchased and prepared together are defined as an AG for SNAP benefits.

The preponderance of evidence establishes that the Claimant and her boyfriend reside together and must be included in the same AG.

CONCLUSION OF LAW

Policy in the WV Income Maintenance Manual §9.1.A, clearly establishes that individuals who live together, and for whom food is customarily (over 50% of the time) purchased and prepared together, be included in the same AG.

DECISION

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

ENTERED this ____ day of May 2015.

Donna L. Toler
State Hearing Officer