

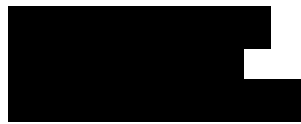


State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

November 19, 2015



RE: [REDACTED] v. WV DHHR
ACTION NOS.: 15-BOR-3284 (SNAP Repayment)
15-BOR-3285 (Medicaid Closure)
15-BOR-3286 (SNAP Closure)

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,

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

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

cc: Brian Shreve, Repayment Investigator

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

██████████,

Appellant,

v.

**ACTION NOs.: 15-BOR-3284 (SNAP Repayment)
15-BOR-3285 (Medicaid Closure)
15-BOR-3286 (SNAP Closure)**

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on November 17, 2015, on an appeal filed October 19, 2015.

The matters before the Hearing Officer arise from the October 15, 2015 decision by the Respondent to establish a repayment obligation against the Appellant's receipt of Supplemental Nutritional Assistance Program (SNAP) benefits, and to discontinue her receipt of Medicaid and SNAP benefits.

At the hearing, the Respondent appeared by Representative Brian Shreve, Repayment Investigator. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was her mother ██████████. All participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Marriage information screen print from iPACT, WV Department of Vital Registration's on-line service
- D-2 Screen print from the WV Bureau of Employment Programs – Unemployment Compensation Insurance (UCI) Claimant Profile Data for Appellant's husband
- D-3 Final Order from the Family Court of ██████████ County, WV, dated July 27, 2015
- D-4 Screen print from the WV Department of Motor Vehicles – Driver's License information regarding Appellant
- D-5 WV DHHR Income Maintenance Manual (IMM), Chapter 9, §9.1.A.1(2)
- D-6 Employee Wage Data print-out regarding Appellant's husband from WV Bureau of Employment Programs

- D-7 Form ES-FS-5, Food Stamp (now SNAP) Claim Determination
- D-8 WV DHHR IMM, Chapter 20, §20.2
- D-9 Letter from Department to Appellant dated October 15, 2015 – Notice of SNAP Overissuance

Appellant's Exhibits:

- A-1 Letter from [REDACTED], dated November 11, 2015
- A-2 Domestic Violence Protection Order Petition, filed in the Magistrate/Family Court of [REDACTED] County, WV, on April 2, 2015
- A-3 Vehicle Insurance Identification Cards, expired March 16, 2015
- A-4 Rent receipts for May 2015 through November 2015
- A-5 Letter from the State of [REDACTED] Department of Safety and Homeland Security, dated February 17, 2015

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, 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) The Appellant and her husband were married on August 2, 2011 (Exhibit D-1). They reported being separated, and the Appellant and her two children have received SNAP and Medicaid without her husband listed in her household or benefits assistance group (AG) since 2012.
- 2) On July 27, 2015, the Family Court of [REDACTED] County, WV, entered a Final Order on Petition for Child Support (Exhibit D-3) for the Appellant's two children. The Final Order lists the mailing addresses for the Appellant and her husband. The addresses are identical.
- 3) Because the mailing addresses for the Appellant and her husband were identical, the Bureau for Child Support Enforcement (BCSE) referred this case to the WV DHHR Repayment Investigation Unit. The Repayment Investigator who investigated the matter determined that the husband's mailing address as listed in the WV Bureau of Employment Programs' computer system (Exhibit D-2) is identical to the Appellant's address.
- 4) The Repayment Investigator who investigated the Appellant's case determined that the husband lived in the Appellant's home from March through October 2015. He determined that the husband's earnings should have been counted toward the household's receipt of SNAP benefits, and because it was not, the household received \$4088 in SNAP benefits to which it was not entitled.
- 5) The Department determined that with the husband and his income in the household, the household was not eligible for SNAP benefits or Medicaid for the Appellant. The Department discontinued the Appellant's eligibility for both of these programs.

- 6) The Appellant requested fair hearings to protest the establishment of the SNAP repayment obligation, and the closure of her SNAP and Medicaid benefits.

APPLICABLE POLICY

WV Income Maintenance Manual (IMM), Chapter 9, §9.1.A.1(2) reads as follows in part:

The following individuals who live together must be in the same AG, even if they do not purchase and prepare meals together:

- Spouses, individuals who are legally married to each other under provisions of state law or those moving to West Virginia from states that recognize their relationship as a legal marriage;
- Children under age 22, living with a parent.

The WV IMM Chapter 10, §10.8.B reads, “The applicant’s MAGI household includes themselves [*sic*], each individual they [*sic*] expect to claim as a tax dependent, and their [*sic*] spouse if residing with the tax filer.”

The WV IMM Chapter 20, §20.2 reads, “When an [assistance group] has been issued more SNAP benefits than it was entitled to receive, corrective action is taken by establishing either an Unintentional Program Violation (UPV) or Intentional Program Violation (IPV) claim.”

DISCUSSION

The Appellant requested a fair hearing to address the establishment of a SNAP repayment obligation and the closure of her SNAP and Medicaid benefits. She testified that she and her husband were married, but have never lived together more than for a few days.

The Department’s representative, the Repayment Investigator who investigated these allegations, submitted a legal document indicating the Appellant and her husband received their mail at the same address (Exhibit D-3). He submitted a print-out from the WV Bureau of Employment Programs indicating the husband listed his mailing address with that agency as the same as the Appellant’s address (Exhibit D-2).

The Appellant submitted evidence she maintained indicated her husband did not live with her. She submitted a domestic violence petition (Exhibit A-2) filed with the [REDACTED] County, WV, Magistrate Court. She submitted a copy of vehicle insurance identification cards which expired in March 2015, listing vehicles registered in [REDACTED] (Exhibit A-3). She submitted a letter from the [REDACTED] Department of Safety and Homeland Security requesting certain information in order to approve the husband for a commercial driver’s license (Exhibit A-5). She submitted seven monthly rent receipts paid to an individual she stated was the husband’s landlord for the months of May through November 2015 (Exhibit A-4).

The evidence to suggest the Appellant's husband lives with her is somewhat circumstantial. The Department's representative provided only two documents to support his position that the husband lived in the Appellant's home. However, the Appellant's evidence to the contrary does not support her position that he lives elsewhere. The domestic violence petition is just a petition, rather than a final order. No findings of fact may be derived from it. The insurance cards expired in March 2015, when the repayment period began, and they listed both the Appellant and her husband on them. The information request letter from the [REDACTED] Department of Safety and Homeland Security was dated February 17, 2015, before the repayment period began.

The rent receipts are questionable. Each receipt purports to be written at the time the husband paid his monthly rent, from May through November 2015. However, each receipt contains a serial number, and all of the numbers are in sequence. The first receipt for May 2015 lists the serial number "772803," the second lists "772804," the third lists "772805." This continues to the current month of November 2015, serial number "772809." Also, each receipt is dated exactly the 15th of each month. These two factors challenge the veracity of these documents.

Although the Department has presented circumstantial evidence to support its position, the preponderance of the evidence suggests that the husband did live with the Appellant from March through October 2015. The Department acted correctly to establish a repayment obligation against the Appellant, and to discontinue her receipt of SNAP and Medicaid benefits.

CONCLUSION OF LAW

The Department acted correctly to establish a repayment obligation against the Appellant, and to discontinue her receipt of SNAP and Medicaid benefits, based on WV Income Maintenance Manual Chapter 9, §9.1.A.1(2), Chapter 10, §10.8.B, and Chapter 20, §20.2.

DECISION

It is the decision of the state Hearing Officer to **uphold** the Department's decision to establish a repayment obligation against the Appellant, and to discontinue her receipt of SNAP and Medicaid benefits.

ENTERED this 19th Day of November 2015.

Stephen M. Baisden
State Hearing Officer