



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

April 29, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NOS.: 16-BOR-1428, 16-BOR-1429

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Joy Hicks, Department Representative

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

██████████,

Appellant,

v.

**Action Numbers: 16-BOR-1428
16-BOR-1429**

**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 convened on April 5, 2016, on an appeal filed March 4, 2016.

The matter before the Hearing Officer arises from the Respondent's February 16, 2016 decision to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits and terminate the Appellant's WV WORKS benefits.

At the hearing, the Respondent appeared by Joy Hicks. Appearing as a witness for the Respondent was ██████████. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- | | |
|-----|---|
| D-1 | Screen prints of case benefit summary for the Appellant from the Respondent's data system |
| D-2 | Notice of decision dated February 16, 2016 |
| D-3 | Screen prints of case comments regarding the Appellant's case from the Respondent's data system |
| D-4 | Policy excerpts from the West Virginia Income Maintenance Manual |

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) The Respondent notified the Appellant of a reduction in her SNAP benefits and termination of her WV WORKS benefits on February 16, 2016. (Exhibit D-2)
- 2) The basis of both actions by the Respondent was their determination that the Appellant's granddaughter (heretofore "the child") no longer qualified for inclusion in her household composition for both programs.
- 3) The Respondent made this determination based on school documents listing the child's emergency contact as her mother, and a physical inspection of the household reporting the child's presence by the caseworker.

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), at §9.1.A.1.b(2), specifies the establishment of an assistance group (AG) for SNAP benefits for children living with a parent, and reads, "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." The policy further establishes that "There is no required maximum/minimum amount of time the child must spend with a parent for the child to be included in the SNAP AG." Notably, this same stipulation is absent from the corresponding policy for children not living with a parent.

At §9.21.A.1, the WVIMM lists individuals that must be included in the WV WORKS AG, and this list includes the parent of the child when the parent lives with the child. Clarification regarding the portion of time necessary to establish the place of residence is only specified for cases of joint custody.

At §15.2.B.2, the WVIMM specifies the requirement that a dependent child reside with a specified caretaker relative, and lists both natural or adoptive parents and blood relatives – including grandparents – as meeting this definition. However, a note in the same section reads, "Legal custody or guardianship of a child does not, in itself, qualify a person as a specified relative."

DISCUSSION

The Respondent reduced the SNAP benefits of the Appellant, and terminated the WV WORKS benefits of the Appellant, based on the removal of a child from her household.

A caseworker for the Respondent observed the home where the child resides and obtained school verification listing the child's mother – not the Appellant – as the child's emergency contact person.

The Appellant offered testimony that the child lives with her. This testimony was unconvincing, partly because the Appellant seemed to be reciting the eligibility requirements based on her understanding of policy. The Appellant offered further testimony – without supporting evidence – that she presently retains legal custody of the child. This legal custody, on its own, does not establish the link between specified caretaker relative and child as noted in policy.

For SNAP, the policy sets no minimum on the amount of time a child must spend in the home of a parent for that parent to include the child in her SNAP assistance group. Therefore, the Appellant's testimony on this subject is irrelevant to the question of her SNAP benefits.

For WV WORKS, the policy directly counters both of the Appellant's points. Legal custody does not exclusively determine the specified relative for a WV WORKS case. Furthermore, the child must be included in the case of a parent when the child "lives" with that parent. Qualifying statements about the proportion of time necessary to establish where the child predominantly "lives" only address custody disputes between biological parents.

Based on the applicable policy and facts, the Respondent was correct to include the child in the assistance group of that child's parent, which resulted in the removal of the child from the Appellant's SNAP case and the termination of the Appellant's WV WORKS case intended for the child.

CONCLUSIONS OF LAW

Because a child included in the Appellant's SNAP and WV WORKS assistance groups met the policy threshold for inclusion in another assistance group, the Respondent was correct to reduce the Appellant's SNAP benefits and terminate the Appellant's WV WORKS benefits accordingly.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's decision to reduce the Appellant's SNAP benefits and terminate the Appellant's WV WORKS benefits.

ENTERED this ____ Day of April 2016.

Todd Thornton
State Hearing Officer