



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

August 11, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2233

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Kristy Dalton, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 16-BOR-2233

**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 August 9, 2016, on an appeal filed July 1, 2016.

The matter before the Hearing Officer arises from the July 11, 2016 decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Pam Randolph, Family Support Supervisor. Appearing as witnesses for the Respondent were Summer Caraway, Family Support Specialist and Tammi Cooley, Front-End Fraud Investigator. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Hearing Summary

D-2 Statement from Appellant dated June 7, 2016

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 Appellant was an active recipient of SNAP benefits for herself and her three (3) children.
- 2) On June 13, 2016, the Department's Front-End Fraud Unit requested that [REDACTED], the father of [REDACTED] be added to the Appellant's SNAP Assistance Group (AG).
- 3) The addition of Mr. [REDACTED] and his income to the Appellant's SNAP AG, resulted in a reduction of monthly SNAP benefits from \$620 to \$300 effective August 1, 2016.
- 4) The Appellant requested a hearing over the reduction of her SNAP benefits, contending that Mr. [REDACTED] does not reside in her household.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §9.1A(1) states that the SNAP AG must include all eligible individuals who both live together and purchase and prepare their meals together.

West Virginia Income Maintenance Manual §9.1A(2) states that the following individuals who live together must be in the same AG, even if they do not purchase and prepare meals together.

- 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.

DISCUSSION

SNAP policy defines a SNAP AG as all individuals who both live together and purchase and prepares their meals together. SNAP policy requires that a parent residing in the same household as their child under the age of 22 must be included in the same SNAP AG. Policy does not define how many hours must be spent in a particular household to be considered as a resident of that household.

The Department obtained a statement (D-2) from the Appellant on June 7, 2016, regarding her household composition, which reads in pertinent part:

In my home is myself, [REDACTED]. [REDACTED] is here now and he is [REDACTED] dad – he is here every day. [REDACTED] gets SSI – he gets 733 per month. He helps me out with the kids. The office knows he is here with me, but he's not on the lease yet. We probably should put him on the lease. [REDACTED] is here now. I have been on maternity leave. I worked for [REDACTED] – and I'm going to return to work today. [REDACTED] is going to watch the baby – my mom watches the other two.

The Department contended that Mr. [REDACTED] could not be considered an absent parent based on the amount of time he spends in the Appellant's household, and per policy he must be included in the Appellant's SNAP AG as the father of [REDACTED]

The Appellant did not dispute that Mr. [REDACTED] comes to her house every day, who was present the day of the home visit conducted by Investigator Cooley. However, the Appellant contended that Mr. [REDACTED] does not live in her home and does not spend nights there. The Appellant and Mr. [REDACTED] testified that while he comes to the Appellant's house daily to help care for the children, he actually resides at [REDACTED] with his grandmother.

The Appellant and [REDACTED] denied that he resided with the Appellant, and the statement provided by the Department is not an admission of his residence with the Appellant, and is only a statement of his frequent presence in the household.

CONCLUSIONS OF LAW

- 1) Per policy, a SNAP assistance group must include all individuals who both live together and purchase and prepare their meals together.
- 2) The Appellant and [REDACTED] denied that he resided in the Appellant's household.
- 3) The Department failed to establish that [REDACTED] resides with the Appellant, and therefore he is not required to be added to her SNAP benefits.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Department's decision to reduce the Appellant's Supplemental Nutrition Assistance Program benefits.

ENTERED this 11th day of August 2016

**Kristi Logan
State Hearing Officer**