



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 West Washington Street
Charleston, WV 25313

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

March 1, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1179

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,

Natasha Jemerison
State Hearing Officer
Member, State Board of Review

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

cc: Robert Meade, FSS

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

██████████,

Appellant,

v.

Action Number: 17-BOR-1179

**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 February 28, 2017, on an appeal filed January 31, 2017.

The matter before the Hearing Officer arises from the January 26, 2017 decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits due to an increase in income and Assistance Group (AG) members.

At the hearing, the Respondent appeared by Robert Meade, Family Support Specialist. Appearing as a witness for the Department was Danielle Jarrett, Front-End Fraud Unit (FEFU). The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision, dated January 26, 2017
- D-2 West Virginia Income Maintenance Manual §§2.1, and 9.1
- D-3 Case Summary, Case Benefits Summary, SNAP Budget, Household Relationships, Employment Income, and Case Comments computer screen prints, dated 2016 through 2017
- D-4 Case Benefit Summary computer screen print, dated March 2016 through December 2016
- D-5 Front-End Fraud Unit (FEFU) Report of Investigation with corresponding documents

Appellant's Exhibits:

None

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 is a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) The Appellant is married to [REDACTED]. (D-4)
- 3) On December 30, 2016, the Front-End Fraud Unit (FEFU) completed an investigation that determined [REDACTED] resided in the home with the Appellant. (D-4)
- 4) As a result of the FEFU investigation, [REDACTED] and his earned income was added to the Appellant's SNAP case. (D-3)
- 5) Due to the increase in AG members and income, the Appellant's SNAP benefits decreased from \$357.00 to \$16.00, effective February 1, 2017. (D-3)

APPLICABLE POLICY

West Virginia Income Maintenance Manual §9.1 explains the following individuals who live together must be in the same Assistance Group (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 18 who live with and are under the parental control of an adult AG who is not a parent, must be in the same AG as the member who exercises parental control;
- Children under age 22, living with a parent.

DISCUSSION

On December 30, 2016, the Front-End Fraud Unit (FEFU) completed an investigation of the Appellant's household circumstances. The investigation determined the Appellant is married to [REDACTED], and Mr. [REDACTED] resides in the home with the Appellant. After adding Mr. [REDACTED]

and his earned income to the Appellant's Supplemental Nutrition Assistance Program (SNAP) case, the Appellant's SNAP benefits decreased from \$357.00 to \$16.00.

Policy outlines who should be included in the same SNAP Assistance Group (AG). It indicates that spouses that are legally married and reside in the same home must be in the same SNAP AG. Mr. [REDACTED] was added to the Appellant's case based on this section of policy.

The Appellant testified that she is married to Mr. [REDACTED] but she stated he works out of town and only stays with her from Friday to Sunday. The Appellant stated Mr. [REDACTED] pays all of the bills. She added that he will take her shopping for things that she needs, but she stated he does not give her money. The Appellant felt that since Mr. [REDACTED] was not in her home on weekdays, he should not be added to her case. She also stated that because he does not give her money, his income should not count against her SNAP benefits.

The Department's representative testified that Mr. [REDACTED] cannot be considered someone who just visits the Appellant's home because they are married. The Department's witness, Danielle Jarrett, testified that she received a signed statement from the Appellant who acknowledged that Mr. [REDACTED] resided in her home. Ms. Jarrett added that income verification received from Mr. [REDACTED] employer indicates that Mr. [REDACTED] does not work out of town.

Evidence and testimony provided at the hearing show Mr. [REDACTED] resides in the home with the Appellant. Both the Department and the Appellant agree the Appellant and Mr. [REDACTED] are legally married. Because Mr. [REDACTED] is in the home with the Appellant every weekend and possibly during the week, he must be considered part of the Appellant's SNAP AG. The Department acted correctly in adding Mr. [REDACTED] and his earned income to the Appellant's SNAP case.

CONCLUSIONS OF LAW

- 1) Because policy requires that spouses that reside together be included in the same SNAP AG, Mr. [REDACTED] and his income must be added to the Appellant's case.
- 2) The Department acted correctly in reducing the Appellant's SNAP benefits based on an increase in income and AG size.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to reduce the Appellant's SNAP benefits.

ENTERED this 1st day of March 2017

**Natasha Jemerison
State Hearing Officer**