



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 Crouch
Cabinet Secretary

July 13, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1908

Dear Mrs. [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: Tera Pendleton, ESW

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

██████████,

Appellant,

v.

Action Number: 17-BOR-1908

**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 July 6, 2017, on an appeal filed May 26, 2017.

The matter before the Hearing Officer arises from the May 5, 2017 decision by the Respondent to terminate 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 Tera Pendleton, Economic Service Worker. Appearing as a witness for the Department was Tammie Drumheller, 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 Case Comments computer screen print, dated March 2017 through May 2017
- D-2 Household Members computer screen print
- D-3 Case Benefit Summary computer screen print, dated August 2016 through May 2017
- D-4 Employment Income computer screen prints
- D-5 Notice of Decision, dated May 5, 2017
- D-6 Front-End Fraud Unit (FEFU) Summary of Investigation with corresponding documents

Appellant's Exhibits:

A-1 Statements from the Appellant's co-workers and friends

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 a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits that were calculated based on her report of having a three-person Assistance Group (AG), herself and her two (2) children.
- 2) The Appellant is married to [REDACTED] and they have two (2) children in common.
- 3) [REDACTED] is included on the Appellant's lease.
- 4) On May 3, 2017, the Front-End Fraud Unit (FEFU) completed an investigation and determined [REDACTED] had earned income beginning December 2016, and resided in the home with the Appellant. (D-6)
- 5) As a result of the FEFU investigation, [REDACTED] and his earned income were added to the Appellant's SNAP case. (D-4)
- 6) On May 5, 2017, the Appellant was notified that her SNAP benefits would close effective June 1, 2017, due to the increase in household income. (D-1)

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

The Appellant's husband, [REDACTED], was a SNAP AG member on the Appellant's case until the Appellant reported he was no longer in the household in February 2017. On May 3, 2017, 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 Appellant's Supplemental SNAP case, the total household income was found to be excessive for the Appellant to continue to receive this benefit.

Policy outlines the ways the Department must determine who should be included in the same SNAP 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 and Mr. [REDACTED] moved in together January 2017, but he moved out of their home February 2017. She stated that Mr. [REDACTED] visits her home regularly to babysit their children when she goes to work, which is often early in the morning. The Appellant also stated that she does not drive, so Mr. [REDACTED] often provides transportation for her and their children. The Appellant provided three (3) statements from co-workers and friends which stated that to the best of their knowledge, Mr. [REDACTED] does not reside with the Appellant. The Appellant stated that Mr. [REDACTED] stays with his grandmother and with a friend. She did not provide a physical address for Mr. [REDACTED] or a statement from his grandmother. The Appellant did acknowledge that she is still legally married to Mr. [REDACTED] and that he is on her lease.

The Department's witness, Mrs. Drumheller, testified that Mr. [REDACTED] cannot be considered someone who just visits the Appellant's home because they are married. She added that Mr. [REDACTED] is consistently in the home and must be considered a resident. Mrs. Drumheller argued that the Appellant's neighbors have seen Mr. [REDACTED] at the Appellant's home often enough to consider him a member of the Appellant's household. She added that income verification provided by Mr. [REDACTED] employer showed that Mr. [REDACTED] and the Appellant have the same physical address.

Evidence submitted by the Department was largely circumstantial. However, it is beyond coincidence that Mr. [REDACTED] left the Appellant's household shortly after obtaining employment that made the household ineligible for SNAP benefits. Additionally, the Appellant was unable to provide a current physical address for Mr. [REDACTED] and has not removed him from her lease. The Appellant's testimony that Mr. [REDACTED] does not reside in her home was not convincing. 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 terminating the Appellant's SNAP benefits based on an excess of income for the program.

DECISION

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

ENTERED this 13th day of July 2017

**Natasha Jemerison
State Hearing Officer**