



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Bill J. Crouch
Cabinet Secretary

Jolynn Marra
Interim Inspector General

June 14, 2019



RE: [REDACTED] v. WVDHHR
ACTION NO.: 19-BOR-1659 and 19-BOR-1660

Dear [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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Brian Shreve, WVDHHR

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

[REDACTED],

Co-Appellants,

v.

Action Number: 19-BOR-1659 and 19-BOR-1660

**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 [REDACTED]. 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 convened on June 13, 2019, on an appeal filed April 30, 2019.

The matter before the Hearing Officer arises from the April 16, 2019 decision by the Respondent to seek repayment of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Brian Shreve, Repayment Investigator, WVDHHR. The Appellants appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Benefit Recovery Referral information
- D-2 Driver History Inquiry for [REDACTED]
- D-3 Driver History Inquiry for [REDACTED]
- D-4 Case Household Information
- D-5 Landlord's statement dated March 19, 2019
- D-6 Copy of photo of [REDACTED] from Facebook
- D-7 Copy of photo of [REDACTED] from Facebook
- D-8 Copy of photo of [REDACTED] (with fish) from Facebook
- D-9 Wikipedia information
- D-10 Food Stamp Claim Determination, Food Stamp Claim Calculation Sheets, Benefit Recovery Referral, Case Household Information, Case Members History, SNAP Issuance History-Disbursement, Food Stamp Allotment Determinations, Marriage Information, Employee Wage Data and Vehicle System Master Inquiry data

- D-11 West Virginia Income Maintenance Manual Chapter 3.2.1.A
- D-12 West Virginia Income Maintenance Manual Chapter 3.2.2
- D-13 West Virginia Income Maintenance Manual Chapter 11.2
- D-14 Notification of SNAP Over Issuance dated April 16, 2019
- D-15 Notification of SNAP Over Issuance dated April 16, 2019

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) [REDACTED] was a recipient of Supplemental Nutrition Assistance Program (SNAP), formerly Food Stamp Program, benefits.
- 2) In February 2019, the Respondent's Investigations and Fraud Management Unit received a Benefit Recovery Referral (D-1), alleging that the Appellant's husband, [REDACTED], was residing in her household. The referral originated after a male - who identified himself as Mr. [REDACTED] cousin, [REDACTED], - answered [REDACTED] telephone when a Department worker attempted to contact Mrs. [REDACTED]
- 3) Division of Motor Vehicles (DMV) data exchange information (D-2) lists the address for Mr. [REDACTED] as [REDACTED], as of the license issuance date February 26, 2016. The same address is listed for Mrs. [REDACTED] on DMV data exchange information as of the issuance date February 1, 2018 (D-3).
- 4) The Respondent's representative obtained a statement from [REDACTED], landlord for the Appellants, on March 19, 2019 (D-5). The statement indicates that occupants of the rental home include [REDACTED] and four children, and that the [REDACTED] moved into the residence around six to seven years ago.
- 5) The Respondent's representative provided Facebook posts (D-6, D-7 and D-8) made by the couple (dates illegible). Two of the photos depict the couple together.
- 6) The Respondent contends that failure to report the correct household composition and to consider Mr. [REDACTED] income in the SNAP benefit calculation resulted in a \$4,459 SNAP over issuance for the period of April 2018 to April 2019 (D-10).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 11.2 (D-13) states that 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. The claim is the difference between the entitlement the Assistance Group received and the entitlement the Assistance Group (AG) should have received.

Chapter 3.2.1.A of the Manual (D-11) states that the SNAP AG must include all eligible individuals who both live together and purchase food and prepare meals together, with the exception of residents of shelters for battered persons. Chapter 3.2.1.A.2 states that spouses are 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.

Chapter 3.2.2 of the Manual (D-11) states that the SNAP income group includes all AG members and all individuals who live with the AG and would otherwise be included in the AG if not ineligible, disqualified, or excluded by law.

DISCUSSION

Policy states that 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. The claim is the difference between the entitlement the Assistance Group received and the entitlement the Assistance Group should have received.

██████████ testified that she and her husband separated sometime in 2016 and reunited in March 2019. She stated that Mr. ██████ visited the home frequently during that time period, but did not stay overnight. She indicated that Mr. ██████ continued to pay rent for the household. Mrs. ██████ contended that the Facebook posts were made by the couple's daughter because the child wanted the couple to remain together. She stated that her landlord is almost 90 years old and does not live within sight of her residence. She indicated that she did not tell the landlord that Mr. ██████ had left the residence because she had no income and feared that the landlord would evict her. Mrs. ██████ also testified that the man who answered her telephone when the Department worker called in February 2019 was Mr. ██████ cousin ██████ who is her neighbor.

As the Appellant's testimony was reasonable - and the landlord was not present during the hearing for questioning – a preponderance of the evidence fails to demonstrate that the Appellant's husband resided in her household during the time period in question. Therefore, the Respondent's proposal to seek repayment of SNAP benefits cannot be affirmed.

CONCLUSION OF LAW

Based on information provided during the hearing, the Respondent's proposal to seek repayment of SNAP benefits cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to REVERSE the Respondent's proposal to seek repayment of SNAP benefits.

ENTERED this 14th Day of June 2019.

**Pamela L. Hinzman
State Hearing Officer**