



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

Bill J. Crouch
Cabinet Secretary

**Board of Review
416 Adams Street Suite 307
Fairmont, WV 26554
304-368-4420 ext. 79326**

Jolynn Marra
Interim Inspector
General

July 23, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 19-BOR-1788

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 Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson
State Hearing Officer
State Board of Review

Enclosure: Appellant's Recourse
Form IG-BR-29

cc: David Griffin, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 19-BOR-1788

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on July 9, 2019, on an appeal filed May 29, 2019.

The matter before the Hearing Officer arises from the April 23, 2019 determination by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by David Griffin, ██████████ County DHHR. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, her husband. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 DHHR Notice, dated April 23, 2019
- D-2 West Virginia Income Maintenance Manual § 3.2

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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits for a four-person Assistance Group (AG) (Exhibit D-1).
- 2) The Appellant completed a review form in April 2019.
- 3) By error, the Appellant included her adult son, [REDACTED], as a household member that purchases and prepares meals with the Appellant.
- 4) [REDACTED] is over age 22.
- 5) The Respondent included [REDACTED] income when determining the AG's continued eligibility for SNAP benefits.
- 6) On April 23, 2019, the Respondent issued a notice advising the Appellant that her SNAP benefits would be terminated, effective June 1, 2019, due to an increase in the AG's income which exceeded the SNAP eligibility guidelines (Exhibit D-1).

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) §1.2.4 Client Responsibility provides in part:

The client's responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about his eligibility.

WVIMM §3.2.1.A Who Must Be Included provides in part:

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.

WVIMM §3.2.1.A.5 Individuals or Groups of Individuals Who Purchase and Prepare Together provides in part:

A group of individuals who live together, and who customarily purchase food and prepare meals together, is an AG. "Customarily" means purchasing food and preparing meals more than 50% of the time.

WVIMM §3.2.1.A.6 Individuals or Groups of Individuals Who Purchase and Prepare Separately provides in part:

Individuals or groups of individuals living with others, but who customarily purchase food and prepare meals separately, are an AG.

“Customarily” means purchasing food and preparing meals more than 50% of the time. An occasional shared meal does not interfere with his separate AG status.

WVIMM §3.2.2 The Income Group (IG) provides in part:

The 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

The Appellant’s SNAP benefits were terminated due to income exceeding the SNAP eligibility guideline. The Appellant contended that her son’s income should not have been included in the SNAP eligibility determination for the AG. The Respondent had to prove by a preponderance of evidence that the Appellant’s son’s income was correctly included when making a SNAP eligibility determination for the Appellant’s AG. The amount of income used was not contested.

The Appellant testified that when she completed her SNAP review form she included her son, [REDACTED], as purchasing and preparing with the Appellant because they shared an occasional meal. The Appellant testified that she didn’t want to withhold any information and had tried to reach the Respondent by phone for clarification but could not get through. The Appellant and her witness testified that [REDACTED] rarely eats with the Appellant. The Respondent argued that because [REDACTED] was listed on the review form as purchasing and preparing together, that he had to be included in the AG. The Respondent testified that because [REDACTED] was included in the AG, his income was required to be included when determining the AG’s SNAP eligibility. The Respondent testified that since the Appellant provided clarification during the hearing regarding [REDACTED] status as purchasing and preparing separately, the Appellant’s eligibility could be redetermined moving forward.

Policy provides that it is the client’s responsibility to provide an accurate report of the AG’s circumstances so that the Respondent can make a correct determination about the Appellant’s SNAP eligibility. Although [REDACTED] was included in error on the review form as purchasing and preparing meals with the Appellant, the Respondent was required to use the information provided by the Appellant to make the AG’s SNAP eligibility determination.

CONCLUSIONS OF LAW

- 1) Policy requires that individuals who reside together and who purchase and prepare meals together must be included in the Assistance Group (AG).
- 2) Because [REDACTED] was listed on the Appellant’s review form as residing with and purchasing and preparing meals with the Appellant, [REDACTED] was required to be included in the Appellant’s AG.
- 3) Policy required [REDACTED] to be included as a member of the AG’s Income Group (IG).

- 4) The preponderance of evidence demonstrated that the Respondent correctly included [REDACTED] income when making the Appellant's AG's SNAP eligibility determination.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's decision to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits, effective June 1, 2019, due to the Appellant's income exceeding SNAP eligibility guidelines.

ENTERED this 23rd day of July 2019.

Tara B. Thompson
State Hearing Officer