



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
Raleigh County District
407 Neville Street
Beckley, WV 25801**

**Jolynn Marra
Interim Inspector General**

June 15, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-1565 and 20-BOR-1566

Dear Mr. [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: Margaret Fain, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

**Action Number: 20-BOR-1565 MED
20-BOR-1566 SNAP**

**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 June 10, 2020, on an appeal filed on April 24, 2020.

The matter before the Hearing Officer arises from the March 11, 2020, decision by the Respondent to exclude the Appellant's children from his Supplemental Nutrition Assistance Program (SNAP) and Medicaid assistance group.

At the hearing, the Respondent appeared by Margaret Fain, Economic Service Supervisor. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Final Order from the Family Court of ██████████ County, West Virginia dated December 4, 2019

Appellant's Exhibits:

A-1 Order Dismissing Action from the Circuit Court of ██████████ County, West Virginia dated February 27, 2020

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 SNAP benefits.
- 2) On March 5, 2020, the Appellant requested that his children, ■■■■■, ■■■■■, and ■■■■■, be added to SNAP and Medicaid assistance group.
- 3) The Appellant's children were receiving SNAP benefits and Children's Medicaid in their mother's case.
- 4) The Respondent notified the Appellant that his request to include his children in his SNAP assistance group and receive Children's Medicaid on their behalf was denied.
- 5) The Appellant provided a court order dated December 4, 2019, which named him as the primary residential parent of ■■■■■, ■■■■■ and ■■■■■ (Exhibit D-1).
- 6) Per the December 2019 court order, the Appellant has overnights with ■■■■■, ■■■■■ and ■■■■■ on Tuesday, Friday and Saturday of each week, and the children's mother has overnights with the children Sunday, Monday and Wednesday of each week. Thursdays are alternated between the parents every other week (Exhibit D-1).

APPLICABLE POLICY

West Virginia Income Maintenance Manual §2.5.1 states that no person may receive SNAP benefits in more than one assistance group (AG) for the same month, except for residents of shelters for battered persons.

West Virginia Income Maintenance Manual §2.5.3 states that no person can receive Medicaid coverage in more than one AG concurrently, unless he receives coverage in one AG and is payee-representative or responsible party only for another AG.

West Virginia Income Maintenance Manual §3.2.1.A.4 states that 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. There is no required maximum/minimum amount of time the child must spend with a parent for the child to be included in the SNAP AG. If no one is receiving any SNAP benefits for the child, it is assumed that the living arrangements are not questionable, and the child is added to the SNAP AG that wishes to add him. If the child is already listed in another SNAP AG or the other parent wishes to add the child to his SNAP AG, the parents must agree as to where the child "lives" and, ultimately, to which SNAP AG he is added. Where the child receives the majority of

his meals, or the percentage of custody, must not be the determining factor for which parent receives SNAP for the child.

DISCUSSION

Pursuant to policy, no one may receive SNAP benefits in more than one SNAP assistance group in the same month. In cases where a child is already listed in a SNAP assistance group, and the other parent wishes to add the child to his or her SNAP assistance group, the parents must agree as to which parent will receive SNAP benefits for the child. There is no minimum amount of time a child must spend with a parent to be included in the parent's SNAP assistance group.

The Appellant requested that his three (3) children be added to his SNAP benefits in March 2020. The Respondent denied the Appellant's request as they were already receiving SNAP benefits in their mother's case. The Appellant contended that as the primary custodial parent of the children, he should be entitled to receive SNAP benefits on their behalf.

Policy is clear that there is no minimum amount of time that a child must spend with a parent to be included in that parent's SNAP benefits. If a child is already receiving SNAP benefits, it is up to the parents to decide who will receive SNAP benefits for the child. Policy is silent as to the consequence of SNAP being received for a child absent an agreement when the other parent clearly wishes to include the child in his or her SNAP assistance group. Policy does not allow for intervention in the matter of which parent may receive SNAP benefits for a child, leaving the matter to be resolved with the parents.

The Appellant also wished to have the children's Medicaid benefits added to his case. [REDACTED], [REDACTED] and [REDACTED] currently receive Medicaid benefits in their mother's case and policy prohibits the receipt of Medicaid coverage in more than one assistance group concurrently. The December 2019 custody agreement specifies that the children's mother must provide the Appellant with the children's medical card (Exhibit D-1). In absence of a court order specifying that the Appellant be the recipient of the children's Medicaid benefits, Medicaid benefits must remain the mother's case.

Whereas policy prohibits the receipt of SNAP and Medicaid benefits in more than one assistance group in the same month, the Appellant cannot receive benefits while [REDACTED], [REDACTED], and [REDACTED] H. are recipients in another case.

CONCLUSIONS OF LAW

- 1) Pursuant to policy no person may receive SNAP and Medicaid benefits in more than one assistance group during the same month.
- 2) There is no required maximum or minimum amount of time a child must spend with a parent to be included in his or her SNAP assistance group.
- 3) If a child is already listed in another SNAP assistance group or the other parent wishes to add the child to his SNAP assistance group, the parents must agree to where the child "lives" and, ultimately, to which SNAP assistance group the child is added.

- 4) [REDACTED], [REDACTED] and [REDACTED] are included in their mother's SNAP and Medicaid assistance group.
- 5) Because the Appellant's children are already receiving SNAP and Medicaid in their mother's case, the Respondent correctly denied their inclusion in the Appellant's SNAP and Medicaid assistance group.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's decision to exclude the Appellant's children from his Supplemental Nutrition Assistance Program and Medicaid assistance group.

ENTERED this 15th day of June 2020.

**Kristi Logan
State Hearing Officer**