



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

January 31, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 20-BOR-1067

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,

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

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

cc: April Stuckey, WVDHHR

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

[REDACTED],

**Appellant,**

**v.**

**Action Number: 20-BOR-1067**

**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 January 29, 2020, on an appeal filed January 13, 2020.

The matter before the Hearing Officer arises from the January 2, 2020 decision by the Respondent to seek repayment of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by April Stuckey, Repayment Investigator, WVDHHR. The Appellant 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 West Virginia Income Maintenance Manual Chapter 11.2
- D-3 Case Members History
- D-4 West Virginia Income Maintenance Manual Chapter 3.2.1.A.4
- D-5 SNAP Claim Determination, Food Stamp Allotment Determinations, SNAP Claim Calculation Sheets, Wage History and Employment Data for [REDACTED]
- D-6 SNAP redetermination form received by Respondent on June 12, 2018
- D-7 SNAP application signed by Appellant on January 5, 2018 (should be dated January 5, 2019) and Case Comments dated January 22, 2019
- D-8 Employment Data for [REDACTED]
- D-9 Statement of unidentified witness and Front-End Fraud Unit Investigative Findings

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), formerly Food Stamp Program, benefits.
- 2) On October 18, 2019, the Respondent's Investigations and Fraud Management Unit received a Benefit Recovery Referral (D-1), alleging that the Appellant's son, [REDACTED], age 19, was residing in her household and had employment income.
- 3) Employment data (D-5 and D-8) indicates that Mr. [REDACTED] began employment at [REDACTED], on October 2, 2018, and lists his address as [REDACTED] (the Appellant's address).
- 4) The Appellant completed a SNAP redetermination on June 27, 2018 (D-6) and indicated that Mr. [REDACTED] was residing in her home and had no income.
- 5) On January 5, 2019 (date on application erroneously states January 5, 2018), the Appellant completed a SNAP application indicating that she was the only individual residing in her home (D-7). Case Comments dated January 22, 2019 state that [REDACTED] was removed from the Appellant's SNAP Assistance Group at the time of application.
- 6) The Respondent's Front-End Fraud Unit completed an investigation concerning the Appellant's Assistance Group in March 2019 and concluded that Mr. [REDACTED] was residing in the Appellant's home (D-9).
- 7) 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 SNAP over issuance for the period of January 2019 to May 2019 (D-5).

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 11.2 (D-2) 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 3.2.2 of the Manual 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.

Chapter 3.2.1.A.4 of the Manual (D-4) states that natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be included in the same SNAP Assistance Group. There is no maximum/minimum amount of time the child must spend with a parent for the child to be included in the SNAP AG.

### **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.

The Appellant testified that her son left her household in October 2018 and moved to [REDACTED] WV, where he resided with his fiancé until December 2019. She indicated that her son has since moved from [REDACTED] WV, to [REDACTED] WV. The Appellant testified that her son comes to visit her when he is in her town. She stated that her son listed her mailing address for employment purposes as he did not know how long he would stay in [REDACTED]

The Respondent's witness, April Stuckey, testified that the Department's Front-End Fraud Unit investigated the Appellant's living situation. She provided a redacted statement from an unknown individual – reportedly a neighbor – which states: "I live (redacted segment) [REDACTED] and [REDACTED] [REDACTED] works in the mines somewhere and he's away a lot. [REDACTED] been there about 3 or 4 years. [REDACTED] came over about a year ago (redacted segment)." The witness signature was redacted and neither the witness nor the Front-End Fraud Investigator were present to testify during the hearing.

The Appellant testified that she believes the neighbor who provided the statement is 90 years old and may have been addressing her stepson who previously visited her home on weekends.

The Respondent offered no direct evidence that [REDACTED] resides in the Appellant's household. His use of the Appellant's mailing address does not - in itself - prove that Mr. [REDACTED] resides in the home. In addition, the Respondent provided a vague, unsigned statement from an unidentified neighbor as evidence of Mr. [REDACTED] residence. There is no indication of how close the neighbor resides to the Appellant's residence, and neither the neighbor nor the fraud investigator attended the hearing to testify or provide clarification.

Evidence is insufficient to establish that Mr. [REDACTED] resided in the Appellant's household during the repayment referral period.

### **CONCLUSIONS OF LAW**

- 1) Policy states that natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be included in the same SNAP Assistance Group.
- 2) The Appellant reported in January 2019 that her 19-year-old son no longer resided in her home.
- 3) Evidence provided by the Appellant fails to establish that the Appellant's son resided in her household for the proposed repayment period of January 2019 through May 2019.
- 4) 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 31st Day of January 2020.**

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**Pamela L. Hinzman  
State Hearing Officer**