

# 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

May 15, 2020



RE: v. WVDHHR
ACTION NO.: 20-BOR-1519

Dear Ms.

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, County DHHR

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

Appellant,

ACTION NO.: 20-BOR-1519

## 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 May 7, 2020 an appeal filed April 15, 2020.

The matter before the Hearing Officer arises from the March 20, 2020 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. Andrew Petitt, Front-End Fraud Unit (FEFU) Supervisor, and Amy Clelland, FEFU Verification Specialist (FEVS), appeared as witnesses on behalf of the Respondent. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

#### **Department's Exhibits:**

- D-1 West Virginia Income Maintenance Manual (WVIMM) § 3.2.1.A.4
- D-2 WVIMM § 10.4.2.B.1
- D-3 WVIMM Chapter 4 Income Chart
- D-4 FEFU Investigative Findings, dated March 19, 2020
- D-5 DHHR Notice, dated March 20, 2020
- D-6 Postmaster Address Information Request, dated July 19, 2019
- D-7 DHHR SNAP Review Form, received August 26, 2019
- D-8 Driver History Inquiry Driver ID, issued March 22, 2019
- D-9 Vehicle System Registration Record, record last modified July 30, 2019
- D-10 Vehicle System Registration Record, record last modified September 9, 2019

D-11	Driver History Inquiry —Driver ID, issued January 7, 2019
D-12	Rent Summary, signed January 3, 2017; Housing Assistance Payments Contract,
	signed December 24, 2016; Lease Agreement, received February 6, 2017
D-13	DHHR Transitional Medicaid Periodic Report, dated December 16, 2016; DHHR
	SNAP Interim Contact Report, received March 3, 2017
D-14	American Electric Power records, dated January 24, 2018
D-15	<u>DHH</u> R Verification Checklist, dated March 8, 2018
D-16	County Assessor Property Record for
D-17	County Assessor Property Record for
D-18	DHHR inROADS SNAP application, dated February 8, 2017
D-19	Bi-Weekly paystubs, dated November 2016 through January
	2017
D-20	DHHR SNAP review form, scanned January 3, 2018
D-21	Bi-Weekly paystubs, dated September 2017 through January
	2018
D-22	Transaction Details and video images, dated December 8, 2019
D-23	Social Media images
D-24	Police Department Arrest Record, approved April 6, 2020
D-25	Offender Address Record, dated March 28, 2020; DHHR email correspondence,
	dated April 23, 2020
D-26	Appellant's Huntington National Bank account statement, dated September
	7, 2019 through January 8, 2020
D-27	Huntington National Bank account statement, dated
	September 7, 2018 through January 8, 2020
D-28	Huntington National Bank account statement, dated October
	1, 2019 through December 31, 2019
D-29	WVIMM § 4.3

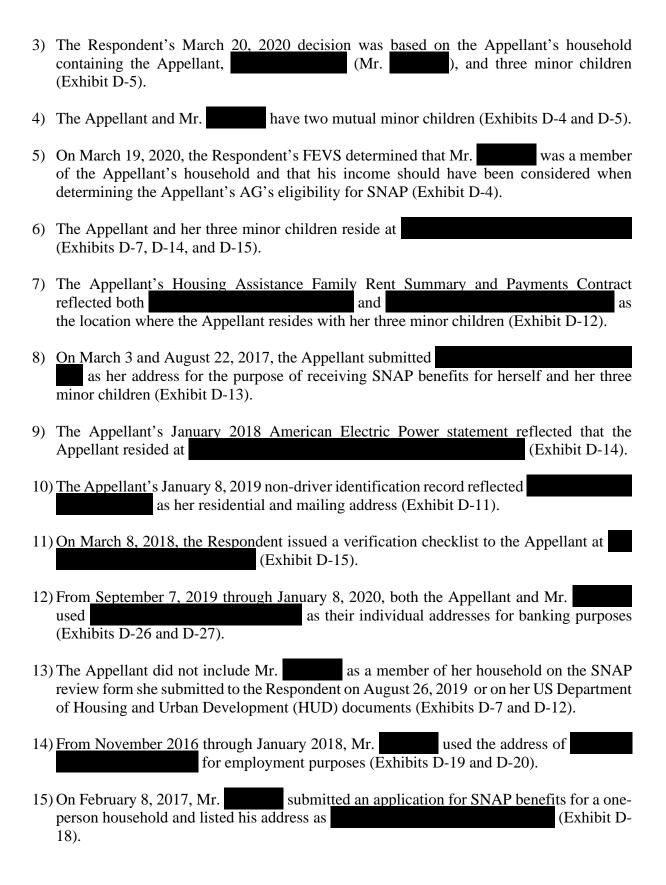
#### **Appellant's Exhibits:**

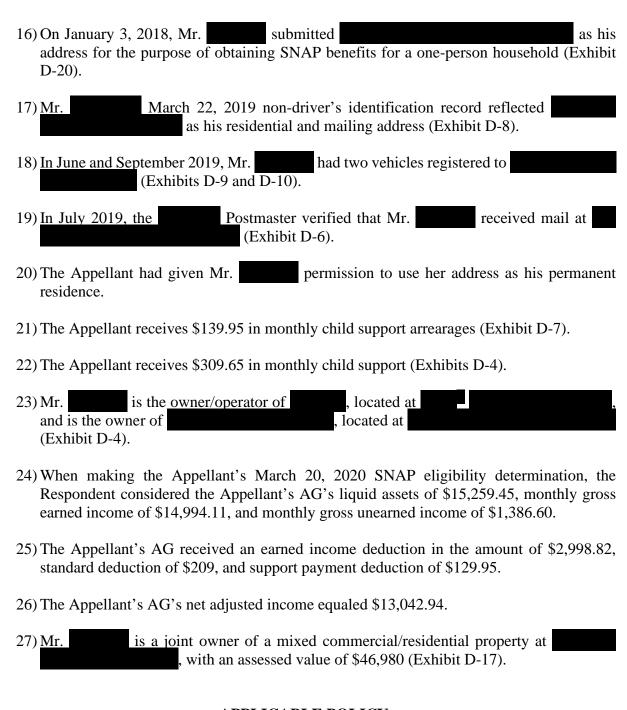
None

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 SNAP benefits for a four-person Assistance Group (AG), which included herself and her three minor children.
- 2) On March 20, 2020, the Respondent issued a notice advising the Appellant that her SNAP benefits would be terminated effective May 1, 2020 because the AG's income and assets exceeded SNAP eligibility guidelines for a five-person AG (Exhibit D-5).





#### **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 her circumstances so that the Worker is able to make a correct determination about her eligibility.

#### **WVIMM Chapter 4 Income Chart:**

For a five person Assistance Group (AG) to be eligible for SNAP, the AG's gross monthly income had to be equal to or below \$3,269.

#### WVIMM §3.2.1.A.4 Children Under Age 22, Living with a Parent provides in part:

Natural children who are under 22 years of age and who live with a parent must be in the same AG as the 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.

#### **WVIMM § 3.2.2 The Income Group 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.

### **WVIMM § 4.1 Income Introduction provides in part:**

Income is defined as any and all monies received from any source. The determination of countable income is necessary, because it is, generally, the countable income that is tested against the maximum income limits. The first step in determining countable income is to determine all the incoming monies to the AG and to those whose income is counted for the AG.

#### WVIMM § 10.4.2.B.1 Sources of Information Verified upon Receipt provides in part:

Action must be taken for all AGs when information is received from a source that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the primary source of the information. The only sources considered verified upon receipt are:

- -Investigations and Fraud Management (IFM) findings of an investigation
- -Housing and Urban Development (HUD)

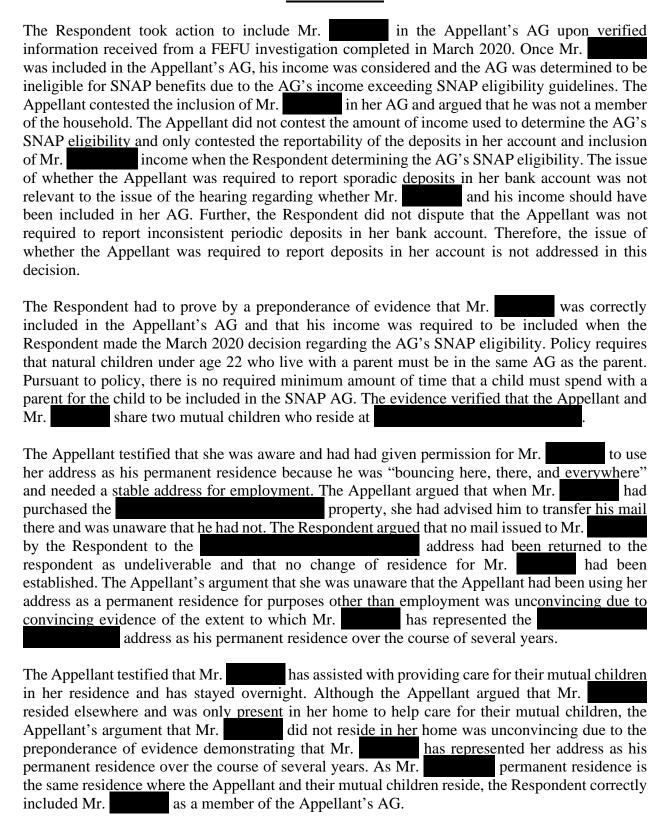
#### WVIMM § 11.5 Referrals to The Front-End Fraud Unit (FEFU) provides in part:

The FEFU verifies questionable information to assist in reducing errors and the potential for fraud. Staff of the FEFU are known as Front-End Verification Specialists (FEVS)

#### WVIMM § 11.5.1.C Household Composition provides in part:

FEFU verification may be conducted when unreported individuals with income are suspected to be living in the home.

#### **DISCUSSION**



Policy provides that the AG's income group includes all AG members who live with the AG. Therefore, the Respondent correctly included Mr. income when determining the Appellant's AG's SNAP eligibility. As the amount of income considered was not contested, the Respondent's evidence verifies that the Appellant's AG exceeded the SNAP eligibility guidelines.

#### **CONCLUSIONS OF LAW**

1)	Policy requires that children age 22 and below be included in the Assistance Group (AG) with the parent with which they live.
2)	The Appellant, , their two mutual minor children, and the Appellant's minor daughter reside at .
3)	The preponderance of evidence proved that Mr. has consistently used the Appellant's address as his permanent residence for the purposes of employment records, banking, receiving mail, registering vehicles, obtaining a non-driver identification, and applying for SNAP benefits.
4)	The preponderance of evidence established that Mr. stays overnight in the home with the Appellant and their mutual children.
5)	The Respondent acted correctly to include Mr. in the Appellant's AG and to consider his income when determining the AG's eligibility for SNAP benefits.

- 6) For a five-person AG to be eligible for SNAP, the Appellant's household's gross monthly income had to be at or below \$3,269.
- 7) The Appellant did not contest the amount of income used by the Respondent on March 20, 2020 to determine the AG's eligibility for SNAP benefits.
- 8) The AG's income exceeded the SNAP eligibility guidelines for a five-person AG.
- 9) The Respondent correctly acted to terminate the Appellant's SNAP benefits due to the AG's income exceeding SNAP eligibility guidelines for a five-person AG.

# **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's Supplemental Nutrition Assistance Program.

ENTERED this 15<sup>th</sup> day of May 2020.

Tara B. Thompson
State Hearing Officer