



**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: [REDACTED] v. WVDHHR
ACTION NO.: 20-BOR-1519

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.: 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 Pettit, 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 DHHR Verification Checklist, dated March 8, 2018
- D-16 [REDACTED] County Assessor Property Record for [REDACTED]
- D-17 [REDACTED] County Assessor Property Record for [REDACTED]
- D-18 DHHR inROADS SNAP application, dated February 8, 2017
- D-19 [REDACTED] Bi-Weekly paystubs, dated November 2016 through January 2017
- D-20 DHHR SNAP review form, scanned January 3, 2018
- D-21 [REDACTED] 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 [REDACTED] 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 [REDACTED] Huntington National Bank account statement, dated September 7, 2018 through January 8, 2020
- D-28 [REDACTED] 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).

- 3) The Respondent's March 20, 2020 decision was based on the Appellant's household containing the Appellant, [REDACTED] (Mr. [REDACTED]), and three minor children (Exhibit D-5).
- 4) The Appellant and Mr. [REDACTED] have two mutual minor children (Exhibits D-4 and D-5).
- 5) On March 19, 2020, the Respondent's FEVS determined that Mr. [REDACTED] was a member of the Appellant's household and that his income should have been considered when determining the Appellant's AG's eligibility for SNAP (Exhibit D-4).
- 6) The Appellant and her three minor children reside at [REDACTED] (Exhibits D-7, D-14, and D-15).
- 7) The Appellant's Housing Assistance Family Rent Summary and Payments Contract reflected both [REDACTED] and [REDACTED] as the location where the Appellant resides with her three minor children (Exhibit D-12).
- 8) On March 3 and August 22, 2017, the Appellant submitted [REDACTED] as her address for the purpose of receiving SNAP benefits for herself and her three minor children (Exhibit D-13).
- 9) The Appellant's January 2018 American Electric Power statement reflected that the Appellant resided at [REDACTED] (Exhibit D-14).
- 10) The Appellant's January 8, 2019 non-driver identification record reflected [REDACTED] as her residential and mailing address (Exhibit D-11).
- 11) On March 8, 2018, the Respondent issued a verification checklist to the Appellant at [REDACTED] (Exhibit D-15).
- 12) From September 7, 2019 through January 8, 2020, both the Appellant and Mr. [REDACTED] used [REDACTED] as their individual addresses for banking purposes (Exhibits D-26 and D-27).
- 13) The Appellant did not include Mr. [REDACTED] as a member of her household on the SNAP review form she submitted to the Respondent on August 26, 2019 or on her US Department of Housing and Urban Development (HUD) documents (Exhibits D-7 and D-12).
- 14) From November 2016 through January 2018, Mr. [REDACTED] used the address of [REDACTED] for employment purposes (Exhibits D-19 and D-20).
- 15) On February 8, 2017, Mr. [REDACTED] submitted an application for SNAP benefits for a one-person household and listed his address as [REDACTED] (Exhibit D-18).

- 16) On January 3, 2018, Mr. [REDACTED] submitted [REDACTED] as his address for the purpose of obtaining SNAP benefits for a one-person household (Exhibit D-20).
- 17) Mr. [REDACTED] March 22, 2019 non-driver's identification record reflected [REDACTED] as his residential and mailing address (Exhibit D-8).
- 18) In June and September 2019, Mr. [REDACTED] had two vehicles registered to [REDACTED] (Exhibits D-9 and D-10).
- 19) In July 2019, the [REDACTED] Postmaster verified that Mr. [REDACTED] received mail at [REDACTED] (Exhibit D-6).
- 20) The Appellant had given Mr. [REDACTED] permission to use her address as his permanent residence.
- 21) The Appellant receives \$139.95 in monthly child support arrearages (Exhibit D-7).
- 22) The Appellant receives \$309.65 in monthly child support (Exhibits D-4).
- 23) Mr. [REDACTED] is the owner/operator of [REDACTED], located at [REDACTED], and is the owner of [REDACTED], located at [REDACTED] (Exhibit D-4).
- 24) When making the Appellant's March 20, 2020 SNAP eligibility determination, the Respondent considered the Appellant's AG's liquid assets of \$15,259.45, monthly gross earned income of \$14,994.11, and monthly gross unearned income of \$1,386.60.
- 25) The Appellant's AG received an earned income deduction in the amount of \$2,998.82, standard deduction of \$209, and support payment deduction of \$129.95.
- 26) The Appellant's AG's net adjusted income equaled \$13,042.94.
- 27) Mr. [REDACTED] is a joint owner of a mixed commercial/residential property at [REDACTED], with an assessed value of \$46,980 (Exhibit D-17).

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

The Respondent took action to include Mr. [REDACTED] in the Appellant's AG upon verified information received from a FEFU investigation completed in March 2020. Once Mr. [REDACTED] was included in the Appellant's AG, his income was considered and the AG was determined to be ineligible for SNAP benefits due to the AG's income exceeding SNAP eligibility guidelines. The Appellant contested the inclusion of Mr. [REDACTED] in her AG and argued that he was not a member of the household. The Appellant did not contest the amount of income used to determine the AG's SNAP eligibility and only contested the reportability of the deposits in her account and inclusion of Mr. [REDACTED] income when the Respondent determining the AG's SNAP eligibility. The issue of whether the Appellant was required to report sporadic deposits in her bank account was not relevant to the issue of the hearing regarding whether Mr. [REDACTED] and his income should have been included in her AG. Further, the Respondent did not dispute that the Appellant was not required to report inconsistent periodic deposits in her bank account. Therefore, the issue of whether the Appellant was required to report deposits in her account is not addressed in this decision.

The Respondent had to prove by a preponderance of evidence that Mr. [REDACTED] was correctly included in the Appellant's AG and that his income was required to be included when the Respondent made the March 2020 decision regarding the AG's SNAP eligibility. Policy requires that natural children under age 22 who live with a parent must be in the same AG as the parent. Pursuant to policy, there is no required minimum amount of time that a child must spend with a parent for the child to be included in the SNAP AG. The evidence verified that the Appellant and Mr. [REDACTED] share two mutual children who reside at [REDACTED].

The Appellant testified that she was aware and had had given permission for Mr. [REDACTED] to use her address as his permanent residence because he was "bouncing here, there, and everywhere" and needed a stable address for employment. The Appellant argued that when Mr. [REDACTED] had purchased the [REDACTED] property, she had advised him to transfer his mail there and was unaware that he had not. The Respondent argued that no mail issued to Mr. [REDACTED] by the Respondent to the [REDACTED] address had been returned to the respondent as undeliverable and that no change of residence for Mr. [REDACTED] had been established. The Appellant's argument that she was unaware that the Appellant had been using her address as a permanent residence for purposes other than employment was unconvincing due to convincing evidence of the extent to which Mr. [REDACTED] has represented the [REDACTED] address as his permanent residence over the course of several years.

The Appellant testified that Mr. [REDACTED] has assisted with providing care for their mutual children in her residence and has stayed overnight. Although the Appellant argued that Mr. [REDACTED] resided elsewhere and was only present in her home to help care for their mutual children, the Appellant's argument that Mr. [REDACTED] did not reside in her home was unconvincing due to the preponderance of evidence demonstrating that Mr. [REDACTED] has represented her address as his permanent residence over the course of several years. As Mr. [REDACTED] permanent residence is the same residence where the Appellant and their mutual children reside, the Respondent correctly included Mr. [REDACTED] as a member of the Appellant's AG.

Policy provides that the AG's income group includes all AG members who live with the AG. Therefore, the Respondent correctly included Mr. [REDACTED] 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, [REDACTED], their two mutual minor children, and the Appellant's minor daughter reside at [REDACTED].
- 3) The preponderance of evidence proved that Mr. [REDACTED] 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. [REDACTED] stays overnight in the home with the Appellant and their mutual children.
- 5) The Respondent acted correctly to include Mr. [REDACTED] 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 15th day of May 2020.

Tara B. Thompson
State Hearing Officer