



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

Bill J. Crouch
Cabinet Secretary

Board of Review
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Jolynn Marra
Interim Inspector
General

August 14, 2020



RE: [REDACTED] v. WVDHHR
ACTION NO.: 20-BOR-1825

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, MLS
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**

[REDACTED],

Appellant,

v.

ACTION NO.: 20-BOR-1825

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on August 6, 2020 an appeal filed July 2, 2020.

The matter before the Hearing Officer arises from the June 23, 2020 determination by the Respondent to terminate the appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Carrie Casto, Economic Services Supervisor. Appearing as a witness on behalf of the Respondent was Andrew Petitt, Front-End Fraud Unit (FEFU) Supervisor. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 DHHR PATH Combined Food & Nutrition and Health Care Application, submitted on April 27, 2020
- D-2 [REDACTED] Postmaster Address Information Request, Postmark/Date stamped May 26, 2020
- D-3 [REDACTED] Information Responses, signed June 10, 2020
- D-4 Employee Wage Data, printed July 14, 2020
- D-5 Handwritten Statement by [REDACTED], dated June 16, 2020
- D-6 Handwritten Statement by [REDACTED], dated June 16, 2020
- D-7 Bank Account Information Request and [REDACTED] Statements for Checking Account Number [REDACTED] and Savings Account Number [REDACTED] from February 7, 2020 through June 9, 2020

- D-8 Front-End Fraud Unit Investigation Findings
D-9 West Virginia Income Maintenance Manual (WVIMM) §§ 3.2, Chapter 4

Appellant's Exhibits:

- A-1 [REDACTED] Personal Signature Card, dated July 1, 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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) On April 1, 2020, the Appellant moved into her residence at [REDACTED] [REDACTED] (Exhibits D-1 and D-3).
- 2) On April 27, 2020, the Appellant submitted an application for SNAP benefits on behalf of herself, her minor sons — [REDACTED] and [REDACTED] — and her minor daughter — [REDACTED] (Exhibit D-1).
- 3) The Appellant's SNAP benefit eligibility was approved for herself and her three minor children.
- 4) On June 23, 2020, the Respondent issued a notice advising the Appellant that her SNAP benefits would be terminated, effective August 1, 2020, due to the household's gross monthly income of \$3,816.98 exceeding SNAP eligibility guidelines.
- 5) The Respondent's June 23, 2020 decision was based on the Appellant's household containing the Appellant, [REDACTED], and their three minor children.
- 6) On June 15, 2020, the Respondent determined that [REDACTED] was a member of the Appellant's household and that his income should have been considered when determining the Appellant's Assistance Group's eligibility for SNAP (Exhibit D-8).
- 7) The Appellant and her husband, [REDACTED], are the biological parents of [REDACTED], [REDACTED] and [REDACTED].
- 8) On the April 27, 2020, the Appellant indicated that her marital status was separated (Exhibit D-1).
- 9) The April 27, 2020 application did not reflect any earned income for the Appellant's household (Exhibit D-1).
- 10) The April 27, 2020 application reflected that beginning on September 20, 2017, the Appellant began receiving \$650 in gross monthly direct child support (Exhibit D-1).

- 11) The April 27, 2020 application section inquiring about whether the Appellant received HUD assistance was left blank (Exhibit D-1).
- 12) The Appellant receives \$750 per month in rental assistance from HUD (Exhibit D-3).
- 13) At the time of the Appellant's application, she had access to joint bank account deposits made by [REDACTED] (Exhibits D-6 and D-7).
- 14) [REDACTED] pays the Appellant's electricity, phone, and vehicle costs from deposits made into a bank account shared with the Appellant (Exhibits D-6 and D-7).
- 15) The Appellant acknowledged that she had read, understood, and agreed to the Rights and Responsibilities and certified that the information provided in the April 27, 2020 application was true and correct (Exhibit D-1).
- 16) On May 26, 2020, the [REDACTED] Postmaster affirmed that mail addressed to [REDACTED] was delivered at [REDACTED] (Exhibit D-2).
- 17) As of June 10, 2020, the Appellant's landlord, [REDACTED], was only aware of the Appellant and her three minor children residing in the household (Exhibit D-3).
- 18) [REDACTED] has received employment wages from [REDACTED] since the second quarter of 2019 (Exhibit D-4).
- 19) In the first quarter of 2020, [REDACTED] received \$12,008.65 in wages from [REDACTED] (Exhibit D-4).
- 20) On June 16, 2020, the Appellant provided a signed written statement to the Respondent which reported that she has resided at her residence since March 2020 (Exhibit D-5).
- 21) The Appellant's statement claimed that she received \$700 to \$725 in monthly HUD rent assistance (Exhibit D-5).
- 22) The Appellant's statement maintained that she received \$700 per month in direct child support (Exhibit D-5).
- 23) The Appellant's statement asserted that [REDACTED] lived in [REDACTED] with his grandmother, stays in hotels, and works at [REDACTED] in [REDACTED] (Exhibit D-5).
- 24) The Appellant's statement declared that [REDACTED] stays at her residence on the weekends (Exhibit D-5).
- 25) The Appellant's statement denied that she shared a joint bank account with [REDACTED] (Exhibit D-5).

- 26) On June 16, 2020, [REDACTED] provided a written statement to the Respondent which asserted that he resides at [REDACTED] with his grandmother but does not pay any bills at his grandmother's residence (Exhibit D-6).
- 27) [REDACTED] statement provided that he spends "some nights" with the Appellant and their mutual children, "some nights" at his grandmother, and stays occasionally with his friend — [REDACTED] — "in [REDACTED]" (Exhibit D-6).
- 28) [REDACTED] statement affirmed that he receives mail at the Appellant's address (Exhibit D-6).
- 29) The Appellant and [REDACTED] file taxes jointly (Exhibits D-6 and D-7).
- 30) The Appellant and [REDACTED] received joint [REDACTED] Account statements at [REDACTED], from February 7, 2020 through May 7, 2020 (Exhibit D-7).
- 31) The Appellant and [REDACTED] received joint [REDACTED] Account statements at [REDACTED] from May 8, 2020 through June 9, 2020 (Exhibit D-7).
- 32) On July 1, 2020, the Appellant removed herself from the [REDACTED] joint account shared with [REDACTED] (Exhibit A-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 her circumstances so that the Worker is able to make a correct determination about her eligibility.

WVIMM §§ 3.2.1.A through 3.2.1.A.2 provides in part:

The SNAP Assistance Group (AG) must include all eligible individuals who both live together and purchase and prepare food and meals together. When an AG member is absent or is expected to be absent from the home for a full calendar month, he is no longer eligible to be included in the AG and must be removed after advanced notice.

Spouses are individuals who are legally married to each other under provisions of state law or those moving to West Virginia from states that recognize their relationship as a legal marriage.

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 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 \$3,401.

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 § 4.3.1 Income Sources provides in part:

Deposits into a bank account made by someone other than an AG member and intended for use of the AG are counted as unearned income for SNAP purposes.

Employment wages are counted as earned income for SNAP purposes.

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 [REDACTED] in the Appellant's Assistance Group (AG) upon verified information received from a concluded June 15, 2020 FEFU investigation. Once [REDACTED] was included in the Appellant's AG, his income was considered and the Respondent determined the AG to be ineligible for SNAP benefits due to the AG's income exceeding SNAP income eligibility guidelines. The Appellant contested closure of her SNAP benefits due to [REDACTED] being added to her AG and argued that his income should not have been considered by the Respondent because he does not reside in her household. The Appellant did not contest the amount of income used to determine the AG's SNAP eligibility and only challenged the inclusion of [REDACTED] income when the Respondent determined the AG's SNAP eligibility.

The Respondent had to prove by a preponderance of evidence that [REDACTED] was correctly included in the Appellant's AG and that his income was required to be included when the Respondent made the June 23, 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. No evidence was entered to demonstrate that [REDACTED] was routinely away from the household for periods of a full calendar month. Pursuant to policy, there is no required minimum or maximum 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 [REDACTED] share three mutual children who reside at [REDACTED].

The Appellant claimed that she has been separated from [REDACTED] since prior to moving to West Virginia. [REDACTED] written statement maintained that he has been separated from the Appellant for two years. However, the preponderance of evidence verified that at the time of the Respondent's June 23, 2020 decision, the Appellant and [REDACTED] were married, were joint tax filers and had mutual access to joint [REDACTED] checking and savings accounts. [REDACTED] written statement affirmed that the AG's bills were paid from the income deposited in the joint [REDACTED] account and that the Appellant did have debit card access to the account at the time of her SNAP application.

The Appellant testified that after moving into her West Virginia residence, she allowed [REDACTED] to use her address — at [REDACTED] — as his primary residence for the purpose of receiving mail. Documentation from the [REDACTED] Postmaster, [REDACTED], and [REDACTED] written statement affirmed that [REDACTED] used the Appellant's address as his permanent residence at the time of the Respondent's June 23, 2020 decision. Both the Appellant and [REDACTED] written statements claimed that he resided part-time with his grandmother in [REDACTED], and stated that he also stayed overnight with the Appellant multiple nights per week. Although the Appellant argued that [REDACTED] resided elsewhere and only stayed in the residence with the children a few nights per week, the Appellant's argument that [REDACTED] did not reside in her home was unconvincing due to the preponderance of evidence verifying that [REDACTED] represented the Appellant's address as his permanent residence for the purposes of banking, mail, and tax filing. As [REDACTED] address of permanent residence was the same residence where the Appellant and their mutual children reside, the Respondent correctly included [REDACTED] as a member of the Appellant's AG when making the June 23, 2020 determination regarding the AG's SNAP eligibility.

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

Additionally, on the Appellant's assistance application, she omitted that she received HUD benefits and claimed in her written statement that she receives \$700 to \$725 monthly HUD rental assistance; however, the evidence verified that the Appellant was receiving HUD assistance to pay her \$750 monthly rent. The Appellant's handwritten statement claimed that she had been residing in her residence since March 2020, however, the evidence provided by the Respondent reflected that the Appellant moved into her home on April 1, 2020. On the Appellant's assistance application, she claimed that she received \$650 per month in direct child support; however, on her written statement, the Appellant claimed that she received \$700 per month in direct child support—which further conflicted with [REDACTED] statement declaring that she receives up to \$800 per month in direct child support. During the hearing, the Appellant claimed that she was unaware that she still shared a joint bank account with [REDACTED]. The Appellant's claim is found to be unreliable as the evidence verified that both the Appellant's name and [REDACTED] name were present on joint bank statements received from February through April 2020 at [REDACTED] [REDACTED] and received from April 8, 2020 through June 9, 2020 at the Appellant's [REDACTED] address. Because no reliable evidence was entered to corroborate the Appellant's claims and the evidence conflicted with the Appellant's assertions, information provided by the Appellant was given little weight in the decision of this Hearing Officer.

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 preponderance of evidence proved that the Appellant, [REDACTED], and their three mutual minor children reside at [REDACTED].
- 3) The Respondent acted correctly to include [REDACTED] in the Appellant's AG and include his income when considering the AG's SNAP eligibility.
- 4) For a five-person AG to be eligible for SNAP, the Appellant's household's gross monthly income had to be at or below \$3,401.
- 5) The Appellant did not contest the amount of [REDACTED] income used by the Respondent on June 23, 2020 to determine the AG's eligibility for SNAP benefits.
- 6) The AG's gross monthly income of \$3,816.98 exceeded the SNAP income eligibility guidelines for a five-person AG.
- 7) The Respondent acted correctly to terminate the Appellant's SNAP benefits due to the AG's income exceeding SNAP eligibility guidelines.

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 benefits.

ENTERED this 14th day of August 2020.

Tara B. Thompson, MLS
State Hearing Officer