



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
433 MidAtlantic Parkway
Martinsburg, WV 25404
Telephone: (304) 352-0805 Fax: (304) 558-1992**

**Jolynn Marra
Inspector General**

Esta es la decision de su Audiencia Imparcial. La decision del Departamento ha sido confirmada/invertido/remetido. Si usted tiene preguntas, por favor llame a Keyla Dominguez, 304-267-0100

May 17, 2022

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 22-BOR-1505

Dear [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,

Lori Woodward, J.D.
Certified State Hearing Officer
Member, State Board of Review

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

cc: Peter VanKleeck, BCF, [REDACTED] DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 22-BOR-1505

**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 May 3, 2022, on an appeal filed April 8, 2022.

The matter before the Hearing Officer arises from the Respondent's April 1, 2022 decision to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Peter VanKleeck, Family Support Supervisor. Appearing as a witness for the Respondent was Cheryle Lippman, Investigations and Fraud Management (IFM). The Appellant appeared *pro se*. The witnesses were placed under oath and the following documents were admitted into evidence:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Notice of closure (EDC-1) dated April 1, 2022
- D-3 West Virginia Income Maintenance Manual, Chapter 3, §3.2.1.A
- D-4 West Virginia Income Maintenance Manual, Chapter 10, §10.4.2.B.1
- D-5 ██████████ Financial Accounts for ██████████
- D-6 ██████████ County, WV Sheriff's Tax Office Real Property Tax Information from 2017 - 2021
- D-7 USPS Address Verification
- D-8 ██████████ Real Property Tax Information

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 Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant began receiving SNAP benefits in December 2019 claiming only herself in the household.
- 2) In November 2021, the Respondent's IFM Unit received a referral alleging that the Appellant's husband, [REDACTED] resided with the Appellant.
- 3) IFM assigned Cheryle Lippman to investigate the allegations made against the Appellant.
- 4) At the conclusion of her investigation, Investigator Lippman determined that the Appellant and her husband resided together.
- 5) Because investigative findings made by IFM are verified upon receipt, the Department added the Appellant's husband, his earned income, and the Certificate of Deposit (CD) and IRA amounts to the Appellant's SNAP AG. (Exhibit D-1)
- 6) On April 1, 2022, the Department sent the Appellant notification of SNAP benefit closure due to the AG being over the income and asset limit for eligibility. (Exhibit D-2)
- 7) The Appellant receives monthly Supplemental Security Income (SSI) benefits of \$560.67. (Exhibit D-1)
- 8) The Appellant has a CD with the [REDACTED] in the amount of \$77,248.11. (Exhibit D-5)
- 9) The Appellant has a Roth IRA account with the [REDACTED] with a balance of \$14,230.12. (Exhibit D-5)
- 10) The Appellant and her husband have residential property located in [REDACTED] County, West Virginia. (Exhibit D-6)
- 11) The Appellant and her husband have residential property located in [REDACTED] [REDACTED], which is approximately four hours from the [REDACTED] County, West Virginia residence. (Exhibit D-8)
- 12) The Appellant's husband pays the monthly expenses for their home in [REDACTED] County, West Virginia. (Exhibit D-6)

- 13) The Appellant's husband works in [REDACTED] with biweekly net income in February 2022 in the amount of \$1,366. (Exhibit D-5)
- 14) The Appellant's husband received a VA compensation benefit in the month of February in the amount of \$152.64. (Exhibit D-5)
- 15) The Appellant's total countable assets were determined to be \$79,869.48. (Exhibit D-2)
- 16) The SNAP asset limit for an AG of 2 is \$3,750. (Exhibit D-2)
- 17) The Appellant's total gross income was determined to be \$3,509.70, and net income of \$2,742.90. (Exhibit D-2)
- 18) The SNAP gross income limit for an AG of 2 is \$1,888.00, and net income limit of \$1,452. (Exhibit D-2)

APPLICABLE POLICY

WV IMM, Chapter 3, §3.2.1.A.2, *Spouses*, 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.

WV IMM, Chapter 10, §10.4.2.B.1, *Sources of Information Verified upon Receipt*, in pertinent part, stipulates that action must be taken for all AGs when information is received from a source that is considered verified upon receipt – Investigations and Fraud Management (IFM) findings of an investigation.

WV IMM, Chapter 4, Appendix A, *Income Limits*, SNAP gross income limit for an AG of 2 is \$1,888 and the net limit is \$1,452.

The asset limit for AGs with at least one member who is over age 60 or disabled is \$3,750. (WV IMM, Chapter 5, §5.4)

DISCUSSION

The Appellant was receiving SNAP benefits for an AG of one. In November 2021, the Respondent's IFM unit received information that the Appellant's husband, [REDACTED], resided with her. IFM assigned Cheryle Lippman to investigate the allegation. At the conclusion of her investigation, Investigator Lippman determined that the Appellant's husband did reside with the Appellant. Investigator Lippman also found that [REDACTED] received earned income and that they had several accounts with the [REDACTED] a, including a CD worth \$77,248.11 and an IRA worth \$14,230.12. Investigator Lippman also found that the Appellant and her husband owned another home in [REDACTED]. Policy requires investigative findings of IFM be considered verified upon receipt. Policy also requires that spouses that reside together be included

in the same SNAP AG. Thus, the Department included IFM's investigative findings to the Appellant's SNAP benefit case. On April 1, 2022, notification was sent to the Appellant that she was over the income and asset limit for SNAP eligibility and, therefore, her benefits were being terminated.

The Appellant appealed the Department's decision, asserting that she and her husband maintain separate households. The Appellant did not contest the amounts in her accounts at the [REDACTED], the ownership of the [REDACTED] property, or [REDACTED] income.

Policy requires spouses be included in a SNAP AG unless otherwise precluded by law. The Appellant testified that at the time of her SNAP application in December 2019, she and her husband were separated but that he did stay with her sometimes. The Appellant also testified that her husband contracted COVID and he moved back with her so she could take care of him. There was no testimony or evidence as to when this occurred or when he purportedly returned to live in [REDACTED]. The Appellant contended he resides in [REDACTED], but pays the mortgage and all the bills for the [REDACTED] County, West Virginia residence except for \$200 that she contributes. The Appellant also contended that her husband commutes to work every day to [REDACTED], which is an approximately eight hour roundtrip commute. The Appellant's testimony that her husband commutes eight hours roundtrip every day from [REDACTED] is unconvincing.

It is undisputed that the Appellant and [REDACTED] are married, own two homes, one in [REDACTED] and one in West Virginia. The Appellant has a CD worth \$77,248.11 and an IRA account of \$14,230.12 as of April 2022, in addition to two other bank accounts. The Appellant's contention that she cannot access these accounts is incorrect. The Appellant may choose not to access their jointly held accounts or withdraw her CD or IRA accounts (which are in her name only), however, they are not inaccessible as she contends.

Policy requires spouses to be included in the same SNAP AG. The testimony and evidence presented showed that the Appellant's husband is a member of the Appellant's household. Thus, [REDACTED] and his income must be included in the SNAP AG. Additionally, the Appellant's assets also must be included in the calculations for SNAP eligibility. Because the Appellant's AG was over the income and asset limit for an AG of two, the Respondent's decision to terminate the Appellant's SNAP benefits is affirmed.

CONCLUSIONS OF LAW

- 1) SNAP policy mandates that spouses be in the same AG unless precluded by law.
- 2) The preponderance of evidence showed that the Appellant and her husband reside together, and, therefore, he must be included in her SNAP AG.
- 3) All income and assets of the SNAP AG must be included in calculating eligibility.
- 4) Because the Appellant's AG was over the income and asset limits for SNAP eligibility, the Respondent's decision to terminate the Appellant's SNAP benefits is affirmed.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's SNAP benefits.

ENTERED this 17th day of May 2022

Lori Woodward, Certified State Hearing Officer