



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

Bill J. Crouch
Cabinet Secretary

Board of Review
PO Box 1247
433 Mid Atlantic Parkway
Martinsburg, West Virginia 25402

Jolynn Marra
Interim Inspector General

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

October 1, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-2071 & 20-BOR-2072

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] Co. DHHR

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

██████████,

Appellant,

v.

**Action No.: 20-BOR-2071
20-BOR-2072**

**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 September 24, 2020, on an appeal filed August 27, 2020.

The matter before the Hearing Officer arises from the Respondent's August 6, 2020 notice of decision to close Supplemental Nutrition Assistance Program (SNAP) and Qualified Beneficiary Coverage benefits.

At the hearing, the Respondent appeared by Peter VanKleeck, Family Support Supervisor. The Appellant appeared *pro se*. The witnesses were sworn, and the following documents were admitted into evidence:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Notice of closure (EDC1) dated August 6, 2020
- D-3 West Virginia Income Maintenance Manual, Chapter 10, §10.4.2.B.2
- D-4 West Virginia Income Maintenance Manual, Chapter 2, §2.2.1.C

Appellant's Exhibits:

- A-1 Petition for a Writ of Certiorari filed In The Supreme Court of the United States by the Appellant, dated September 8, 2020
- A-2 Sealed Informal Brief of Appellant filed In The United States Court of Appeals for the Fourth Circuit, dated April 12, 2018; In The United States District Court for the Northern District of West Virginia Indictment filed December 15, 2015; Sealed Order of Dismissal filed In The United States District Court for the Northern

District of West Virginia [REDACTED] filed January 6, 2017; Order In The United States Bankruptcy Court for the Northern District of West Virginia filed August 24, 2017; Stipulation and Consent Order Terminating Automatic Stay as to Sovereign Bank and Certain Real Property Generally Known as [REDACTED], entered on July 9, 2010 In The United States Bankruptcy Court for the Northern District of West Virginia; Writ of Execution In The Circuit Court of [REDACTED] County, West Virginia; Order and Notice entered November 21, 2014 by the United States Bankruptcy Court for the Northern District of West Virginia; Settlement Agreement and Release dated July 13, 2010; Copy of S.1304 Automobile Dealer Economic Rights Restoration Act of 2009; Copy of H.R. 2743; In The United States Bankruptcy Court for the Northern District of West Virginia Order entered March 8, 2016; In The United States Bankruptcy Court for the Northern District of West Virginia, Chapter 7 Trustees' Final Accounting and Distribution Report Certification that the Estate has been Fully Administered and Application to be Discharged (TDR) entered February 10, 2016; In The United States Bankruptcy Court for the Northern District of West Virginia Order Approving Professional Fees and Expenses entered August 27, 2015; Dealer Statement of Ownership filed August 5, 2015; Bill of Sale and Assignment; In The United States Bankruptcy Court for the Northern District of West Virginia Order entered September 28, 2017; In The United States Bankruptcy Court for the Northern District of West Virginia Division Trustee's Final Report (TFR); In The United States Bankruptcy Court for the Northern District of West Virginia Report of Auction dated March 18, 2018; In The United States Bankruptcy Court for the Northern District of West Virginia Division Chapter 7 Trustees' Final Accounting and Distribution Report Certification that the Estate has been Fully Administered and Application to be Discharged (TDR) entered signed April 8, 2019; In The United States Bankruptcy Court for the Northern District of West Virginia Order entered March 2, 2016; Federal and Local Bankruptcy Rule 8002, Time for Filing Notice of Appeal; In The United States Bankruptcy Court for the Northern District of West Virginia Notice of Telephonic hearing November 2, 2010; Copy of H.R. 2743; In The United States Bankruptcy Court for the Northern District of West Virginia Order entered June 9, 2010; In The United States Bankruptcy Court for the Northern District of West Virginia Order and Notice entered November 21, 2014; Form 2 Cash Receipts and Disbursements Record Entered October 30, 2015; In The United States Bankruptcy Court for the Northern District of West Virginia 2(nd) Addition to Joint Discovery entered July 1, 2015; Proposed Modification Agreement dated May 19, 2014; In The United States Bankruptcy Court for the Northern District of West Virginia Order entered May 16, 2014; In The United States Bankruptcy Court for the Northern District of West Virginia Order Approving Professional Fees and Expenses entered August 31, 2015; In The United States Bankruptcy Court for the Northern District of West Virginia entered March 8, 2016; In The United States Bankruptcy Court for the Northern District of West Virginia Objection of U.S. Trustee to [REDACTED] Motion to Obtain U.S. Trustee's Research Data filed November 10, 2011; Letter from the Supreme Court of the United States Office of the Clerk dated August 31, 2030 [sic]; Letter dated September 8, 2020 from [REDACTED] to [REDACTED], Esq.

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 receives Supplemental Nutrition Assistance Program (SNAP) and Qualified Medicare Beneficiary Coverage (QMB) benefits from the state of West Virginia.
- 2) On July 30, 2020, the Respondent received returned mail for the Appellant which listed a [REDACTED] forwarding address. [Exhibit D-1]
- 3) Based upon this information, the Respondent sent notification of SNAP and QMB benefit closure on August 6, 2020 to the Appellant's [REDACTED] address. [Exhibit D-2]
- 4) The Appellant returned a request for fair hearing stating he was "forced to take temp [sic] residence in [REDACTED] nothing found in J.C. EXTN request 3 months."
- 5) The Appellant has been living in the state of [REDACTED] for two years.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (IMM), Chapter 2, §2.2, *Residence*, in part, states that in order to be eligible to receive benefits, the client must be a resident of West Virginia. The client must live within the borders of West Virginia for purposes other than vacation.

WV IMM, Chapter 2, 2.2.1.C, *Prolonged Absence From Home*, in part, explains that regardless of the reason for the absence, any person expected to be absent from the home for a full calendar month or more is not eligible to be included in the assistance group (AG). Shorter absences do not affect eligibility. This policy applies to visiting, obtaining vocational training or education, and obtaining medical care. This policy applies to in-state and out-of-state travel.

WV IMM, Chapter 10, §10.2.1.B.3, *Closure Because the Client Moves to Another States*, directs that when the client moves to another state and his address is known, the worker must complete the appropriate notification letter for AG closure and send it to the client.

WV IMM, Chapter 10, §10.4.B.2, *Sources That Are Considered Reported*, in part, specifically includes returned mail received with a United States Postal Service (USPS) sticker indicating the client has moved out of West Virginia. If all other benefits in the case close, SNAP is also closed. If all benefits do not close, SNAP remains open and this must be addressed at next redetermination. If the case is SNAP only, benefits continue and is addressed at the next redetermination.

DISCUSSION

The Appellant receives SNAP and QMB benefits from the state of West Virginia. The Respondent received returned mail from the USPS indicating that the Appellant has moved out-of-state to

██████. Because the Appellant receives SNAP and QMB Medicaid benefits, per policy, the Respondent was required to take steps to close those benefits. On August 6, 2020, the Respondent sent notice of SNAP and QMB Medicaid closure effective September 1, 2020. On August 27, 2020, the Appellant requested a fair hearing stating that he was “forced to take temp [sic] residence in █████ nothing found in J.C. EXTN request 3 months.”

At the hearing, the Appellant proffered he was “temporarily” living in █████ and claims he is not a “resident” of the state of █████. However, the Appellant admitted he has been living in the state of █████ for about two years. Although the Appellant may intend to move back to the state of West Virginia someday, it is uncontroverted that he has been living in █████ for two years. Policy requires residency in the state of West Virginia to be eligible to receive SNAP and QMB Medicaid benefits. Once an individual leaves the state of West Virginia for a period of over 30 days, SNAP and QMB Medicaid benefits must be closed after proper notice.

Because the Appellant has been living in the state of █████ for two years, he is not considered a resident of West Virginia per policy. The Respondent’s decision to terminate the Appellant’s West Virginia SNAP and QMB Medicaid benefits is affirmed. Of note, nothing in this decision precludes the Appellant from applying for benefits in the state of █████.

CONCLUSIONS OF LAW

- 1) Policy dictates that regardless of the reason for an absence from the state of West Virginia, any person expected to be absent from the home for a full calendar month or more is not eligible to be included in the assistance group (AG).
- 2) Policy requires closure of SNAP benefits if other benefits are closed upon notification from the USPS that an individual has moved out of state.
- 3) The Appellant has been living in the state of █████ for two years.
- 4) The Respondent correctly closed the Appellant’s SNAP and QMB Medicaid benefits he was receiving from the state of West Virginia.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to close the Appellant’s SNAP and QMB Medicaid benefits.

ENTERED this 1st day of October 2020.

Lori Woodward, Certified State Hearing Officer