



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

December 10, 2020

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-2443 & 20-BOR-2444

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.: 20-BOR-2443
20-BOR-2444**

**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 December 2, 2020, on an appeal filed October 27, 2020.

The matter before the Hearing Officer arises from the Respondent's September 25, 2020 notice of decision to close Supplemental Nutrition Assistance Program (SNAP) and Adult Medicaid benefits.

At the hearing, the Respondent appeared by Peter VanKleeck, Family Support Services 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 Completed PRC2 signed and dated September 9, 2020
- D-3 Notice of SNAP closure dated September 25, 2020
- D-4 Notice of Adult Medicaid closure dated September 25, 2020
- D-5 West Virginia Income Maintenance Manual, Chapter 2, §2.2.1.C
- D-6 West Virginia Income Maintenance Manual, Chapter 2, §2.2.3.C

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 was a recipient of SNAP and Adult Medicaid benefits in the state of West Virginia.
- 2) On September 15, 2020, the Appellant submitted a completed PRC2 (periodic reporting form). (Exhibit D-2)
- 3) The Appellant indicated on the PRC2 that he had a “temporary” change of address to [REDACTED]. (Exhibit D-2)
- 4) The Respondent sent notices on September 25, 2020 to the Appellant regarding SNAP and Medicaid closures based upon non-residency in West Virginia. (Exhibits D-3 and D-4)
- 5) The Respondent moved to [REDACTED] in July 2020 because he could no longer afford his rental in West Virginia.
- 6) The Respondent continues to live in the state of [REDACTED] as of the date of this hearing.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (IMM), Chapter 2, §2.2, *Residence*, requires a client be a resident of West Virginia to be eligible to receive benefits. The client must live within the borders of West Virginia for purposes other than vacation. There is no minimum time requirement for how long the client must live or intends to live in West Virginia. The client is not required to maintain a permanent or fixed dwelling. An individual remains a resident of the former state until he arrives in West Virginia with the intention of remaining indefinitely. Therefore, intent to establish or abandon residency must be known before the state of residence is determined.

IMM, Chapter 2, §2.2.1, Supplemental Nutrition Assistance Program (SNAP), explains under §2.2.1.C, *Prolonged Absence from the Home*, 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 AG.

IMM, Chapter 2, §2.2.3, *Medicaid*, explains under §2.2.3.C.1, *Visiting*, temporary visits out of state with the intent to return do not affect the client's state of residence for Medicaid and WVCHIP.

IMM, Chapter 2, §2.2.3.C.3, *Medical Care*, explains that if a client temporarily leaves his residence to obtain medical care or treatment, he continues to be considered a West Virginia resident.

DISCUSSION

The Appellant was receiving SNAP and Adult Medicaid from the state of West Virginia. On September 15, 2020, the Appellant returned a completed periodic reporting form (PRC2). The Appellant indicated on the PRC2 that he had a “temporary” change of address to [REDACTED]. On September 25, 2020, the Respondent issued notices of SNAP and Adult Medicaid closures to the Appellant, citing non-residency in West Virginia. The Appellant requested a fair hearing on these closures.

The Appellant testified that he no longer lived in West Virginia due to “circumstances.” The Appellant underwent emergency gallbladder surgery on March 10, 2020 in [REDACTED], West Virginia. He explained that after his surgery, he was unable to work due to the pandemic. He testified that because he was no longer working, he could not afford his rent. Therefore, he needed to move in with his sister in [REDACTED] so he would not be homeless living on the street. He testified that he moved in with his sister in July 2020. The Appellant averred that his move to the state of [REDACTED] was temporary and that he was hoping to move back to West Virginia sometime in the near future.

Medicaid policy states that West Virginia residency is unaffected if an individual temporarily visits out of state. However, the testimony showed that the Appellant has been living with his sister in the state of [REDACTED] since July 2020 and no longer maintains a residence in the state of West Virginia. An individual does not have to maintain a dwelling to be considered a resident of West Virginia. However, the fact that he has not resided in West Virginia since July 2020, a period of five months, does not support the Appellant’s assertion of a “temporary visit.” Therefore, the Respondent was correct to close the Appellant’s Adult Medicaid based on non-residency.

Because the Appellant has not resided in the state of West Virginia since July, he is ineligible to receive SNAP benefits from the state. SNAP policy requires that recipients of SNAP who are expected to be absent from the home for a full calendar month, regardless of the reason, cannot be included in the Assistance Group (AG).

CONCLUSIONS OF LAW

- 1) SNAP policy mandates that recipients of SNAP who are expected to be absent from the home for a full calendar month, regardless of the reason, cannot be included in the Assistance Group (AG).
- 2) West Virginia Medicaid policy states that residency is not affected if individuals temporarily visit out of state.

- 3) Because the Appellant has been living with his sister in the state of [REDACTED] since July 2020, it cannot be considered a “temporary visit.”
- 4) The Respondent correctly determined that the Appellant is ineligible to receive SNAP and Medicaid benefits from the state of West Virginia.

DECISION

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

ENTERED this 10th day of December 2020.

Lori Woodward, Certified State Hearing Officer