



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 304-267-0100

August 5, 2025

[REDACTED]

RE: [REDACTED] v. WV DoHS/BFA
ACTION NO.: 25-BOR-2381

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 Human Services. These same laws and regulations are used in all cases to ensure 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: Recourse to Hearing Decision
Form IG-BR-29

cc: Anna Yoder, WV DoHS/BFA

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

[REDACTED],

Appellant,

v.

Action Number: 25-BOR-2381

**WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES
BUREAU FOR FAMILY ASSISTANCE,**

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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on July 29, 2025.

The matter before the Hearing Officer arises from the June 26, 2025 decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Anna Yoder, Economic Service Worker, Senior. The Appellant was self-represented. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Notice of SNAP reduction (EDR1), dated June 26, 2025

Appellant's Exhibits:*

- A-1 [REDACTED] lease dated April 1, 2025; [REDACTED] West Virginia Family Court Order Denying Domestic Violence Protective Order and Terminating the Emergency Protective Order, issued July 2, 2025; Magistrate Court Order of Emergency Protection issued June 23, 2025

*The hearing was held open until August 3, 2025 for submission of evidence by the Appellant without objection)

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 benefits in a four-person assistance group (AG) with his three children.
- 2) On June 23, 2025, the Magistrate Court of [REDACTED] issued an Emergency Order of Protection (EOP) and granted the mother of the Appellant's two children, [REDACTED] temporary custody of [REDACTED]
- 3) The EPO did not address that [REDACTED] was to claim the children in her SNAP AG. (Exhibit A-1)
- 4) On June 24, 2025, [REDACTED] submitted the EOP to the local DoHS office. (Exhibits D-1 and A-1)
- 5) [REDACTED] were receiving SNAP benefits in the Appellant's AG.
- 6) The Respondent's worker removed the two children from the Appellant's SNAP assistance group (AG) and added them to the [REDACTED] AG. (Exhibit D-1)
- 7) On June 26, 2025, the Respondent issued notification to the Appellant that his SNAP benefits were being reduced due to the change in his AG members, effective August 1, 2025. (Exhibit D-2)
- 8) On July 2, 2025, a hearing was held in the Family Court for [REDACTED], West Virginia at which time the judge denied the Domestic Violence Protective Order and terminated the EOP. (Exhibit A-1)
- 9) The Appellant regained physical custody of children [REDACTED] on July 2, 2025.
- 10) On July 10, 2025, the Appellant submitted a request to the Respondent for a pre-hearing conference and/or a fair hearing.

APPLICABLE POLICY

WV Income Maintenance Manual (WV IMM), Chapter 3, §3.2.1.A.4, Children under Age 22: Living with a Parent Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as that 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. If no one is receiving any SNAP benefits for the child, it is assumed that the

living arrangements are not questionable, and the child is added to the SNAP AG that wishes to add him. **If the child is already listed in another SNAP AG or the other parent wishes to add the child to his SNAP AG, the parents must agree as to where the child “lives” and, ultimately, to which SNAP AG he is added. Where the child receives the majority of his meals, or the percentage of custody, must not be the determining factor for which parent receives SNAP for the child.** [Emphasis added]

Code of Federal Regulations – 7 CFR §273.1(b):

(b) *Special household requirements* —

(1) **Required household combinations.** The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

(i) Spouses;

(ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); and

(iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult.

DISCUSSION

The Appellant was a recipient of SNAP benefits with his three children in an AG of four. On June 23, 2025, the Magistrate/Family Court of [REDACTED], West Virginia (Family Court), judge issued an EPO against the Appellant granting [REDACTED], the mother of child [REDACTED] [REDACTED] temporary custody. The EPO did not include any language that the children were to be placed in [REDACTED] SNAP AG.

On June 24, 2025, [REDACTED] went to the local DoHS office and presented the EPO. The Respondent's worker removed the two children from the Appellant's SNAP AG and added them to [REDACTED] SNAP AG. On June 26, 2025, the Respondent issued notification to the Appellant of the reduction in his SNAP benefits due to the removal of the children effective August 1, 2025. On July 2, 2025, the Appellant regained physical custody of the children after a hearing and Order denying the domestic violence protective order and terminating the EPO by the Family Court judge. On July 10, 2025, the Appellant submitted a request for a pre-hearing conference and/or a fair hearing contesting the removal of the children from his SNAP AG. The Respondent must show by a preponderance of evidence that it followed policy in removing the Appellant's children from his SNAP AG.

SNAP policy instructs that when a child is under the age of 22 years of age, the child must be included in the same AG as the parent. However, when a child is already listed in another parent's SNAP AG, policy requires that the parents agree as to which AG the child is added. Policy does

not require a maximum or minimum amount of time a child must spend with a parent in order to be included in the SNAP AG.

The Respondent failed to prove by a preponderance of evidence that it correctly followed policy in removing [REDACTED] from the Appellant's SNAP AG. The Appellant's children were already receiving SNAP benefits in the Appellant's AG. The evidence and testimony showed that there was no agreement between the parents regarding who would claim the children for SNAP benefits. Additionally, the temporary custody granted to [REDACTED] in the EPO, it did not include any language that the children were to be placed in [REDACTED] SNAP AG. The Respondent's decision to remove the Appellant's children, [REDACTED], cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Policy requires that children who are under the age of 22 receiving SNAP in another SNAP AG or the other parent wishes to add the child to his SNAP AG, the parents must agree as to whose SNAP AG the child is to be included.
- 2) The Appellant's children, [REDACTED], were already receiving SNAP benefits in his AG.
- 3) The June 23, 2025 EPO granting temporary custody of children [REDACTED] did not include language that the children were to be placed in [REDACTED] SNAP benefit AG.
- 4) The June 26, 2025 notification of the removal of the children from the Appellant's SNAP AG was to be effective August 1, 2025.
- 5) Because the Respondent failed to show that it correctly followed policy in removing the Appellant's children from the Appellant's SNAP AG, it's decision cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to remove the Appellant's children from his SNAP AG and to restore any lost SNAP benefits to the Appellant.

ENTERED this 5th day of August 2024.

Lori Woodward, Certified State Hearing Officer