



September 10, 2025

[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DoHS
ACTION NO.: 25-BOR-2657

Dear Mr. [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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Jennifer Barker, WV DoHS

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

Appellant,

v.

Action Number: 25-BOR-2657

**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 West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on September 9, 2025.

The matter before the Hearing Officer arises from the Respondent's denial of Supplemental Nutrition Assistance Program (SNAP) benefits for the Appellant's children as outlined in notices dated August 14, 2025, and August 22, 2025.

At the hearing, the Respondent appeared by Jennifer Barker, Economic Services Supervisor, WV DoHS. 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 Request Notification form
- D-2 Notice of Decision dated August 14, 2025
- D-3 Scheduling Order dated August 19, 2025
- D-4 West Virginia Income Maintenance Manual Chapters 3.2.1.A.4 and 10.1
- D-5 Notice of Decision dated August 22, 2025
- D-6 SNAP change report form received by Respondent on August 18, 2025

Appellant's Exhibits:

- A-1 Court Orders from Family Court of [REDACTED] County, West Virginia
- A-2 Letter from [REDACTED] [REDACTED] County Schools, dated November 15, 2024

A-3 Copies of text messages

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 is a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits in his fiancé, [REDACTED] case.
- 2) The Respondent sent Ms. [REDACTED] a Notice of Decision on August 14, 2025, indicating that the Appellant's minor sons, [REDACTED] and [REDACTED], were ineligible for SNAP benefits (Exhibit D-2).
- 3) The Appellant submitted a SNAP change report form to the Respondent on August 18, 2025 (Exhibit D-6).
- 4) On the form, the Appellant wished to add [REDACTED] and [REDACTED] to Ms. [REDACTED] SNAP Assistance Group (Exhibit D-6).
- 5) [REDACTED] and [REDACTED] are current SNAP recipients who have been receiving SNAP benefits in their mother, [REDACTED] case for several years.
- 6) The Respondent sent the Appellant a Notice of Decision on August 22, 2025, indicating that the children were ineligible to receive SNAP benefits in Ms. [REDACTED] case (Exhibit D-5).
- 7) The Respondent and Ms. [REDACTED] had joint 50/50 custody of their children in 2019.
- 8) The Appellant is the primary residential and custodial parent of the children as indicated in an [REDACTED] County Family Court Modification Order dated April 24, 2025 (Exhibit A-1).
- 9) In the April 2025 Modification Order, Ms. [REDACTED] was assigned parenting time every other weekend contingent upon her "provision of a negative drug screen at the front end of said parenting time... In the event [REDACTED] misses and/or cancels her parenting time without good cause OR misses her parenting time due to a positive drug screen or failure to submit to a drug screen on three occasions, then [REDACTED] parenting time shall automatically revert back to being at [REDACTED] sole discretions, under the terms and guidelines he sees fit and appropriate, if at all" (Exhibit A-1).

APPLICABLE POLICY

Code of Federal Regulations 7 CFR 273.1(b) states:

(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.

Code of Federal Regulations 7 CFR 273.1(c):

c) ***Unregulated situations.*** For situations that are not clearly addressed by the provisions of [paragraphs \(a\)](#) and [\(b\)](#) of this section, the State agency may apply its own policy for determining when an individual is a separate household or a member of another household if the policy is applied fairly, equitably and consistently throughout the State.

West Virginia Income Maintenance Manual Chapter 3.2.1.A.4 states that natural or adopted children who are under 22 years of age and who live with a parent must be in the same Assistance Group (AG) with 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.

West Virginia Income Maintenance Manual Chapter 10.1 addresses the case maintenance process.

This process requires clients to report specific changes in circumstances to the Department of Human Services. The primary source of such information is expected to be the client, but information from all sources is considered.

DISCUSSION

Policy states that natural or adopted children who are under 22 years of age and who live with a parent must be in the same SNAP Assistance Group (AG) with 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 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** [emphasis added] 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.

The Appellant testified that his sons do not reside with their mother and she has not seen them since June 2025. He stated that he did not have a problem with Ms. [REDACTED] originally receiving SNAP benefits for the children because she was not working and he wanted to ensure that they had food during their visitation with her. The Appellant indicated that he has had primary custody of the children since 2021, that Ms. [REDACTED] missed three consecutive visits with the children, and that he will not currently allow her to have visitation with them due to alleged drug use issues. The Appellant provided copies of text message correspondence, allegedly between himself and Ms. [REDACTED] regarding visitation and drug testing requirements, but there is no way to verify the origin of the text messages.

Jennifer Barker, Economic Services Supervisor with the Department, testified that the Respondent could not add the children to the Appellant’s case because they are already receiving SNAP benefits in their mother’s case.

While the Appellant’s contentions are noted, the latest Modification Order provided by the Appellant states that Ms. [REDACTED] was assigned parenting time (which could revert to the Appellant’s discretion should she fail to meet certain conditions). Ms. [REDACTED] was not present during the hearing to confirm or refute the Appellant’s contentions, or to provide information concerning where the children “live” for purposes of receiving SNAP benefits.

As policy stipulates that parents must agree as to where their children “live” for SNAP purposes, the Respondent acted correctly in denying the Appellant’s request to add his sons to his SNAP Assistance Group.

CONCLUSIONS OF LAW

- 1) If a child is already listed in another SNAP AG and the other parent wishes to add the child to his SNAP AG, the parents must agree on where the child “lives” and to which SNAP AG the child is added.
- 2) The Appellant’s sons have received SNAP benefits in their mother’s case for several years.
- 3) There is no indication that the mother of the Appellant’s children has agreed with the Appellant on where their children currently “live.”
- 4) The Respondent acted correctly in denying the Appellant’s request to remove his children from their mother’s SNAP Assistance Group and add them to his SNAP benefits.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent’s action to deny the Appellant’s request to add his sons to his SNAP Assistance Group.

ENTERED this 10th day of September 2025.

**Pamela L. Hinzman
State Hearing Officer**