



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

April 3, 2024

[REDACTED]

RE: [REDACTED] v. WV DOHS
ACTION NO.: 24-BOR-1653 & 24-BOR-1654

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 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: Recourse to Hearing Decision
Form IG-BR-29

cc: Keith Henry, WV DOHS, BFA

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

██████████,

Appellant,

v.

**Action Number: 24-BOR-1653
24-BOR-1654**

**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 ██████████. 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 March 27, 2024.

The matter before the Hearing Officer arises from the February 7, 2024 decisions by the Respondent to deny Medicaid and/or WV CHIP for the Appellant's two children and also deny the inclusion of his children in his Supplemental Nutrition Assistance Program (SNAP) assistance group (AG).

At the hearing, the Respondent appeared by Keith Henry. The Appellant appeared *pro se*. All witnesses were placed under oath and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Supplemental Nutrition Assistance Program (SNAP) – 6 or 12 month contact form (PRC2), signed and dated January 16, 2024
- D-3 PATH medical application submitted February 5, 2024
- D-4 Notice of SNAP eligibility (ED13), dated February 7, 2024
- D-5 Notice of Medicaid coverage group change, dated February 7, 2024
- D-6 WV Income Maintenance Manual (IMM), Chapter 3, §3.2.1.A.4

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 is a recipient of SNAP benefits in an AG of 1.
- 2) On January 16, 2024, the Appellant submitted a PRC2, reporting that his two children with whom he shares 50/50 custody with their mother, were in his household. (Exhibit D-2)
- 3) On February 5, 2024, the Appellant applied for Medicaid coverage for his two children. (Exhibit D-3)
- 4) On February 6, 2024, the Appellant's PRC2 and Medicaid application for his children were processed. (Exhibit D-1)
- 5) On February 7, 2024, the Respondent denied adding the Appellant's children to his SNAP AG due to their receiving SNAP benefits in another AG. (Exhibit D-4)
- 6) On February 7, 2024, the Respondent denied Medicaid coverage for the children in the Appellant's AG as they were already receiving Medicaid coverage in another AG. (Exhibit D-5)

APPLICABLE POLICY

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.

WV Income Maintenance Manual, Chapter 2, §2.5.1, Supplemental Nutrition Assistance Program (SNAP): No person may receive SNAP benefits in more than one assistance group (AG) for the same month.

WV Income Maintenance Manual, Chapter 2, §2.5.3 Medicaid And WV CHIP: No person can receive Medicaid coverage in more than one AG concurrently, unless he receives coverage in one AG and is payee-representative or responsible party only for another AG.

WV Income Maintenance Manual, 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]

DISCUSSION

The Appellant is a recipient of SNAP benefits in an AG of one. On January 16, 2024, the Appellant submitted a PRC2 indicating that his two children, who are under the age of 22, were in his household. On February 5, 2024, the Appellant applied for Medicaid benefits for his children. On February 6, 2024, the Appellant’s PRC2 and Medicaid application were processed by the Respondent. The Respondent discovered that the Appellant’s children were receiving SNAP and Medicaid benefits in another AG. Notice of the denials was sent to the Appellant on February 7, 2024. The Appellant appealed the Respondent’s decisions.

Policy prohibits individuals from receiving SNAP or Medicaid benefits in more than one 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. 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. In circumstances where 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.

Although the Appellant has shared court-ordered 50/50 custody with the children’s mother, there is no specific order as to which parent may obtain SNAP and/or Medicaid benefits for the children. Additionally, there is no agreement between the parents as to which one of them may claim the children for SNAP and/or Medicaid benefits. The Appellant testified that he recently went to court and received a copy of the children’s Medicaid card. Because the children have medical coverage,

which he can access for them, he was not as concerned about the Respondent's decision not to add them to his AG for Medicaid coverage.

However, the Appellant does disagree with the policy that does not allow him to include his children in his SNAP AG. The Appellant argued the SNAP allotment he receives is not enough to provide adequate food for his children when they are in his care. The Appellant testified that the situation between himself and the children's mother has been contentious, leading to the loss of his job and difficulty in finding other work. As he has 50/50 custody of the children, he believes that an exception should be made.

Policy instructs that disagreements as to which parent may claim a child in their SNAP AG should be resolved by the parents. Thus, absent an agreement between the parents or a specific court order regarding which parent may claim a child for benefits, whoever applies first for benefits and is found eligible to receive them, will be the parent who gets to add the child to their AG. Note, however, this is not a permanent condition. There may be instances where SNAP benefits are closed thus allowing a window of opportunity for the non-claiming parent to add the child to their SNAP AG, absent an agreement between the parties or a court order.

Although the Appellant's frustration and concern about the current SNAP policy regarding this issue is understandable, the Board of Review does not have the authority to make exceptions to policy. As the Appellant's children were already receiving SNAP and Medicaid benefits in their mother's AG, and there is no agreement between the parents or a court order contra-indicating this in place, the Respondent correctly denied their addition to the Appellant's AG.

CONCLUSIONS OF LAW

- 1) Policy does not allow anyone to receive SNAP or Medicaid benefits in more than one AG.
- 2) Policy requires that children who are under the age of 22 living with their parent be included in that parent's AG.
- 3) If no one is receiving any SNAP benefits for a child who is under the age of 22, it is assumed by policy that the living arrangements are not questionable, and the child is added to the SNAP AG that wishes to add the child.
- 4) Policy directs that if the child who is under the age of 22 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 the child is added.
- 5) The Appellant's children were already receiving SNAP and Medicaid benefits in their mother's AG when the Appellant decided to add them to his AG.
- 6) There is no court order or any other agreement as to which parent may claim the children for SNAP and/or Medicaid benefits.

- 7) The Respondent correctly denied adding the Appellant's children to his SNAP and Medicaid AG.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to disallow the Appellant's children in his SNAP and Medicaid AG.

ENTERED this 3rd day of April 2024.

Lori Woodward, Certified State Hearing Officer