



August 8, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NOS.: 24-BOR-2699 and 24-BOR-2700

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 people 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, DoHS

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

██████████,

Appellant,

v.

Action Numbers: 24-BOR-2699 and 24-BOR-2700

**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 West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on August 6, 2024.

The matter before the Hearing Officer arises from the Respondent's denial of Supplemental Nutrition Assistance Program (SNAP) and School Clothing Allowance (SCA) benefits for the Appellant's child as outlined in notices dated July 18, 2024.

At the hearing, the Respondent appeared by Jennifer Barker, Economic Services Supervisor, WVDoHS. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Decision dated July 18, 2024 (SCA denial)
- D-2 Notice of Decision dated July 18, 2024 (SNAP notice)
- D-3 Order from Family Court of ██████████ concerning July 25, 2023, hearing
- D-4 West Virginia Income Maintenance Manual Chapter 3.2.1.A.4
- D-5 West Virginia Income Maintenance Manual Chapter 2.5.1
- D-6 West Virginia Income Maintenance Manual Chapter 10.4.2.B.2

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 applied for Supplemental Nutrition Assistance Program (SNAP) and School Clothing Allowance (SCA) benefits.
- 2) The Appellant's School Clothing Allowance application was denied because her son, [REDACTED] currently receives SNAP benefits through his father's case and received SCA automatically in that case as a result.
- 3) The Respondent notified the Appellant on July 18, 2024, that her SCA application was denied because the child already received the assistance (Exhibit D-1).
- 4) The Respondent notified the Appellant on July 18, 2024, that SNAP benefits were approved for two Assistance Group members but were denied for [REDACTED] because [REDACTED] is already receiving SNAP in his father's case (Exhibit D-2).
- 5) The Appellant was designated as legal custodian of [REDACTED] as a result of a July 25, 2023, hearing in [REDACTED] Family Court. The child's father received parenting time during the third full week of every month and for two weeks per month during the summer (Exhibit D-3).
- 6) The Family Court Judge stipulated that the Appellant make the Social Security Administration aware that she should be designated as payee for [REDACTED] Social Security benefits (Exhibit D-3).

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 2.5 states that no person may receive SNAP, WV WORKS, or Medicaid benefits in more than one Assistance Group (AG) for the same month.

7 Code of Federal Regulations Section 273.1(3)(b)(2) states that a person under 22 years of age living with his natural, adoptive, or stepparents must be included in the same SNAP household with the parent.

West Virginia Income Maintenance Manual Chapter 3.2.1.A.4 states that 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.

West Virginia Income Maintenance Manual Chapter 19.3.1 states:

An Application for West Virginia School Clothing Allowance (WVSCA), form DFA-WVSC-1, will be mailed to families with school-age children who received WVSCA in the previous program year and who are included in an active Supplemental Nutrition Assistance Program (SNAP) or Medicaid assistance group (AG) in June of the current program year. Active SNAP AGs who have indicated they want to be evaluated for automatic issuance of School Clothing Allowance (SCA) if determined eligible by the deadline for the current program year will not be mailed WVSCA application forms and will be included in the automatic issuance. When there is a child in the case who is less than 5 or older than 17, the eligibility system will send a DFA-WVSC-1 during the regular mass mailing. All other applicants must complete a DFA-WVSC- 1, DFA-2, or use WV PATH to apply for WVSCA.

West Virginia Income Maintenance Manual Chapter 19.4.2 states that eligibility groups for WV WORKS School Clothing Allowance and West Virginia SCA are the same as for WV WORKS.

West Virginia Income Maintenance Manual Chapter 3.4.1.A states that the following individuals must be included in the WV WORKS AG:

In cases of joint custody, only the custodial parent is included. The custodial parent is the one with whom the child lives more than 50% of the time in a given month. The custodial parent of any child may change from month to month. If the child lives with each parent exactly 50% of the time, the parents must decide who the custodial parent is.

West Virginia Income Maintenance Manual Chapter 19.4.11.A states that when a Hearing Officer rules in a fair hearing that the SCA or WVSCA denial was inappropriate, the worker must issue the benefit to the applicant.

DISCUSSION

Policy states that there is no required maximum/minimum amount of time a child must spend with a parent for the child to be included in a SNAP Assistance Group. 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. For purposes of the School Clothing Allowance Program, only the custodial parent is included. The custodial parent is the one with whom the child spends more than 50 percent of the time in a given month. When an SCA benefit has been issued inappropriately, the worker must issue the correct benefit to the applicant.

The Respondent's witness, Jennifer Barker, contended that the Department was unable to approve the Appellant's SCA application or approve █████ for SNAP benefits in the Appellant's case because █████ is included in his father's SNAP case. A School Clothing Allowance was automatically issued to █████ in that case.

The Appellant's Family Court Order indicates that the Appellant has primary custody of █████ and that █████ father was granted parenting time during the third full week of every month and for two weeks per month in the summer.

█████ father was receiving SNAP benefits for █████ upon the Appellant's SNAP application. Policy is clear that parents must decide to which SNAP AG a child will be added since the percentage of meals eaten with a parent or the percentage of custody is not considered. Therefore, the Respondent acted correctly in denying the Appellant's SNAP benefits for █████

School Clothing Allowance policy, however, requires that the custodial parent (with whom the child spends 50 percent of the time in a given month) be included in consideration of the benefit. As the Appellant's Court Order and testimony reveals that █████ spends the majority of his time with the Appellant in a given month, the Appellant must be evaluated for School Clothing Allowance benefits for █████ and approved if otherwise eligible.

CONCLUSIONS OF LAW

- 1) Since █████ already receives SNAP benefits in his father's case, the Respondent's decision to deny SNAP benefits for █████ in the Appellant's case was correct.
- 2) The Respondent's decision to deny the Appellant's SCA application was incorrect as the Appellant is the custodial parent of █████

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to deny SNAP benefits for █████ in the Appellant's case. It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to deny the Appellant's SCA application. The case is **REMANDED** to the Respondent to determine the Appellant's eligibility for SCA benefits.

ENTERED this 8th day of August 2024.

**Pamela L. Hinzman
State Hearing Officer**