

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF HUMAN SERVICES
APPEALS OFFICE
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Cranston, Rhode Island 02920
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Docket # 14-913
Hearing Date: August 4, 2014

Date: August 7, 2014

ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided for you. During the course of the proceeding, the following issue(s) and Agency policy reference(s) were the matters before the hearing:

**THE DHS PROVIDER MANUAL: SNAP
SECTION: 1004.15 Household Composition**

The facts of your case, the Agency policy, and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the Appellant), Cynthia Machado, the agency representative/Supervisor, and the Policy Unit.

Present at the hearing were: You (the Appellant) and the agency representative/Supervisor.

ISSUE: Had the Appellant's SNAP case properly been closed?

DHS POLICIES:

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Policy and Provider Manuals.

APPEAL RIGHTS:

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

DISCUSSION OF THE EVIDENCE:**The Agency Representatives testified:**

- The agency issued a letter to the Appellant on May 14, 2014 informing her that her SNAP case has been closed due to the Appellant's two daughters being removed from the household.
- The Appellant's two daughters had been removed from the SNAP budget due to another Fair Hearing decisions in which that hearing officer sided with the Appellant's ex-husband, who had also appealed an agency's denial of his request for benefits.
- In February, the Appellant in this matter came into the DHS Office in Providence request why her SNAP case with her two daughters had closed; the agency informed her that the children had been removed from her SNAP budget. The Appellant presented a schedule that a Family Court Mediator had established that reflected which parent would have the only two children of the marriage when.
- The Appellant has the children Mondays, Tuesdays, Thursdays, Saturdays (during the day) and the 1st and 3rd Saturday night of the month; also the 1st and 3rd Sunday (all day). The daughters are with their dad on Wednesdays, Fridays, the 2nd and 4th Saturdays nights of the month (over-night) and the 2nd and 4th Sunday.
- The agency presented a letter from the daughters' elementary school's social worker, indicating that the girls have attended this particular elementary school since kindergarten and to the best of the social worker's knowledge, the girls are with their mother Monday, Tuesday, Thursday and Saturday.
- The agency supervisor closed the Appellant's ex-husband's SNAP budget that he had with his daughter and the supervisor re-opened this Appellant's SNAP budget with her daughters.
- At this point, the ex-husband receives his closure notice and he files for a Fair Hearing Appeal against the agency's decision to close his SNAP budget. He is granted a Hearing, which was heard on May 7, 2014 at the Warwick DHS Office. A decision came down in favor of the ex-husband due to the agency's inability to explain why his SNAP budget had closed. This decision re-opened the ex-husband's SNAP with the daughters, which then forced the closure of this Appellant's SNAP and the issuance of the agency's letter on May 14, 2014.

The Appellant testified:

- The Appellant testified and presented a schedule from the RI Family Court that is Court date stamped May 21, 2012. The schedule is the Appellant has the children Mondays, Tuesdays, Thursdays, Saturdays (during the day) and the 1st and 3rd Saturday night of the month; also the 1st and 3rd Sunday (all day). The daughters are with their dad on Wednesdays, Fridays, the 2nd and 4th Saturdays nights of the month (over-night) and the 2nd and 4th Sunday.
- The daughter's father will pick up the girls at the Appellant's home (she currently resides in a shelter) and on every other Saturday, the father will come by after he gets out of work by 4 pm, with an exceptional overtime occasion.
- The Appellant presented a three page document from the RI Family Court, Final Judgment, dated December 17, 2012. The Final Judgment states that both parents are awarded joint custody and shared physical placement of the two minor children and that the father of the child will pay \$170.00 per week to the mother for child support.

FINDINGS OF FACT:

- The agency issued a letter to the Appellant on May 14, 2014 in forming her that her SNAP case has been closed due to the Appellant's two daughters being removed from the household.
- There is another Fair Hear Appeal decisions in which the Appellant's ex-husband appealed an agency's decision denying him SNAP benefits for his daughters that he shares with his ex-wife, the Appellant in this matter. The ex-husband was claiming that he had the children more and the agency was not able to dispute this claim at that time, therefore a decision was issued allowing the ex-husband to be able to have the daughters place on his SNAP budget and removed from his ex-wife, the Appellant.
- There is a schedule from the RI Family Court that is Court date stamped May 21, 2012. The schedule is the Appellant has the children Mondays, Tuesdays, Thursdays, Saturdays (during the day) and the 1st and 3rd Saturday night of the month; also the 1st and 3rd Sunday (all day). The daughters are with their dad on Wednesdays, Fridays, the 2nd and 4th Saturdays nights of the month (over-night) and the 2nd and 4th Sunday.
- The daughter's father will pick up the girls at the Appellant's home (she currently resides in a shelter) and on every other Saturday, the father will come by after he gets out of work by 4 pm, with an exceptional overtime occasion.
- The Appellant presented a three page document from the RI Family Court, Final Judgment, dated December 17, 2012. The Final Judgment states that both parents are awarded joint custody and shared physical placement of the two minor children and that the father of the child will pay \$170.00 per week to the mother for child support.

CONCLUSION:

The issue to be decided is whether the Appellant's SNAP case had been properly been closed.

In February of 2014 the agency removed the two daughters from the Appellant's ex-husband SNAP budget, the ex-husband files an appeal of that agency action, a Hearing was held and it was decided that the agency had made an error in closing his case and the case was order to be re-opened. When the children had been removed from their father's SNAP budget, they were then placed on this Appellant's SNAP budget. When the father's Fair Hearing Appeal decision was issued, it instructed the agency to re-open the father's SNAP case and in turn, close this Appellant's SNAP case with the two daughters.

Upon the Appellant receiving notice of her SNAP case closing on May 14, 2014, she filed an appeal of the agency's action. The agency was unable to resolve this issue due to a Fair Hearing decision recently being issue that is contrary to this issue. The issue being addressed in this decision will be the only issue being address; any action or inaction by the agency will not be addressed in this decision.

The agency had closed the Appellant's SNAP case due to the Appellant's ex-husband claiming that he has the two daughters at least 51% of the time.

The Appellant presented at hearing a copy a RI Family Court Final Judgment dated December 17, 2012 that awarded joint custody and shared physical placement of the two minor children; ordered the father, the Appellant's ex-husband to pay \$170.00 per week for the support of his two children; and a schedule of when the children of the marriage are to be with which parent. The schedule breakdown is as follows:

The Appellant has the children Mondays, Tuesdays, Thursdays, Saturdays (during the day) and the 1st and 3rd Saturday night of the month; also the 1st and 3rd Sunday (all day). The daughters are with their dad on Wednesdays, Fridays, the 2nd and 4th Saturdays nights of the month (over-night) and the 2nd and 4th Sunday.

The Appellant also presented a letter from a Case Manager from the Rhode Island Family Shelter, Inc. where the Appellant and her two daughters currently reside. The letter, dated July 10, 2014 indicates that the schedule is the same. There was a letter from the Warwick School System, signed by the school's social worker, although not dated, reflects the same schedule. There was also an attendance record presented from the daughter's elementary school but there is no indication which home the children came from or which home they left to.

Policy states that "Households must list on their application the various members they wish to be considered for SNAP benefits. If questionable, the agency representative should examine each application to determine if there are members who may not be eligible to participate in the household's receipt of benefits." (§ 1004.15 Household Composition) The agency representative at this Hearing is a supervisor for the SNAP Program, she had an opportunity to examine the documents that the Appellant presented and had not contested any of it.

The schedule created by the RI Family Court has the children with their mother (the Appellant) all day/all night on Mondays, all day/all night Tuesdays, all day/all night

Thursdays, all day Saturday and the 1st and 3rd Saturday night and all day Sunday and the 1st and 3rd Sunday night of the month. The children's father has them all day/all night on Wednesdays, all day/all night on Fridays and the 2nd and 4th Saturday and Sunday night. This schedule is also the belief and understanding of the children's school and the shelter which where they live. Furthermore, this schedule has been in place since at least May 21, 2012 as indicated by the Family Court date stamp and there was no indication that either party had an issue with it.

In conclusion, the Appellant had her SNAP case that included her two daughters closed due to the agency believing that the children no longer resided with her the majority of the time even though the Appellant's application listed the children living with her. While at Hearing, the Appellant presented a RI Family Court schedule showing which parent has the children on what days/nights. This schedule dates back to May 21, 2012 and remains current to this day. The Final Judgment also states that the father (Plaintiff) is to pay the mother/Appellant (Defendant) \$107.00 per week for child support, which lead one to believe that it is the Family Court's opinion is that the mother (Appellant in this matter) has the children the majority of the time, otherwise the mother would have been ordered to pay child support or if the children had truly been split 50/50 with each parent, no child support could have been ordered. The agency representative/supervisor of the SNAP Program was left without question as to the Appellant's household composition, the Appellant's children reside with her the majority of the time.

After a careful review of the Agency's policies, as well as the evidence and testimony given, this Appeals Officer finds that the Appellant SNAP case should not have closed and should be re-opened. The appellant's request for relief is therefore granted.

ACTION FOR THE AGENCY:

The agency shall withdraw the Appellant's May 14, 2014 SNAP closure notice and reinstate the Appellant's SNAP household case as it was prior to the closure letter being issued.

Thomas Bucacci
Appeals Officer