



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D. Ph.D
Cabinet Secretary

April 13, 2011

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held April 6, 2011. Your hearing request was based on the Department of Health and Human Resources' decision to deny you Supplemental Nutrition Assistance Program benefits due to being an ineligible student.

In arriving at a decision, the State Hearings Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for the Supplemental Nutrition Assistance Program (SNAP) is based on current policy and regulations. These regulations provide that unless certain exemptions are met, college students are not eligible to participate in SNAP (WV Income Maintenance Manual § 9.1 A).

The information submitted revealed that you met the student exemption of working a minimum of 80 hours a month, qualifying you to participate in SNAP.

It is the decision of the State Hearings Officer to **Reverse** the action of the Department to deny you SNAP based on being an ineligible student.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

cc: Erika Young, Chairman, Board of Review
Diana Burroughs, Economic Service Worker

**WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW**

-----,

Claimant,

v.

Action Number: 11-BOR-324

**West Virginia Department of
Health and Human Resources,**

Respondent.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on April 6, 2011 for ----- . This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources.

II. PROGRAM PURPOSE:

The Program entitled Supplemental Nutrition Assistance Program is administered by the West Virginia Department of Health & Human Resources.

The purpose of the Supplemental Nutrition Assistance Program (SNAP) is to provide an effective means of utilizing the nation's abundance of food "to safeguard the health and well-being of the nation's population and raise levels of nutrition among low-income households." This is accomplished through the issuance of benefits to households who meet the eligibility criteria established by the Food and Nutrition Service of the U.S. Department of Agriculture.

III. PARTICIPANTS:

-----, Claimant
Jessica Shumake, Economic Service Worker

Presiding at the Hearing was Kristi Logan , State Hearing Officer and a member of the Board of Review.

All participants testified by phone.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department's decision to deny Claimant Supplemental Nutrition Assistance Program benefits was correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 9.1 A

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification Letter dated November 18, 2010
- D-2 WV Income Maintenance Manual § 9.1
- D-3 Paystubs from Bob Evans Restaurant

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Claimant reapplied for Supplemental Nutrition Assistance Program (SNAP) benefits on November 9, 2010. A denial notification letter dated November 18, 2010 was issued by the Department which read in pertinent part (D-1):

Your 11/3/10 application for SNAP has been denied.
----- is an ineligible student.

- 2) Jessica Shumake, Economic Service Worker, testified that Claimant is considered an ineligible student to receive SNAP. Ms. Shumake stated Claimant was not working 20 hours a week or 80 hours a month at the time of application and met no other student exemptions to qualify for SNAP. Ms. Shumake testified the previous six (6) weeks paystubs were used in determining Claimant's eligibility (D-3).
- 3) Claimant testified that she is a full-time college student at New River Community and Technical College. Claimant stated she has been working for Bob Evans restaurant for over a year and that her hours were "cut" during the winter months. Claimant stated she was unsure if she was averaging 80 hours a month during the time of reapplication but stated she understood the reason for the denial of SNAP.
- 4) WV Income Maintenance Manual § 9.1 A(2)f states:

Unless certain exemptions are met, otherwise eligible individuals who meet the SNAP definition of a student are ineligible to participate in the Program and may not be a separate AG [assistance group].

Students Eligible to Participate [in SNAP]

Students who meet one or more of the following criteria are eligible to participate, provided all other eligibility factors are met:

The student is employed at least 20 hours per week or 80 hours a month, and is paid for the employment.

Unlike normal work registration, a student cannot substitute wages equivalent to 20 times the minimum hourly wage, but must actually work at least 20 hours a week or 80 hours a month, regardless of the amount of wages.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that unless certain exemptions are met, full-time college students are not eligible to participate in SNAP.
- 2) According to the paystubs used in determining Claimant's eligibility at her November 2010 SNAP application, Claimant was working at Bob Evans at least 80 hours a month. The 30 day period of consideration from the date of Claimant's application was October 6, 2010 through November 4, 2010. Claimant worked the following hours during that time period: October 8, 21.16 hours; October 15, 15.32 hours; October 22, 11.34 hours; October 29, 31.53 hours and November 5, 21.76 hours for a total number of hours worked of 101.11 hours.
- 3) Claimant met the student exemption of working a minimum of 80 hours a month and therefore qualified to participate in SNAP.

IX. DECISION:

It is the decision of the State Hearing Officer to **reverse** the decision of the Department to deny Claimant SNAP benefits.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 13th day of April 2011

**Kristi Logan
State Hearing Officer
Member, Board of Review**