



**State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
Post Office Box 1736
Romney, WV 26757**

**Joe Manchin III
Governor**

**Martha Yeager Walker
Secretary**

July 21, 2005

[REDACTED]

Dear Mr. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held July 12, 2005. Your hearing request was based on the Department of Health and Human Resources' decision to close your Food Stamp case.

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 Food Stamp program is based on current policy and regulations. Some of these regulations state as follows: To be eligible beyond the first or second 3-month limit and Able-bodied Adult (ABAWD) must meet the work requirement or otherwise be exempt from the ABAWD policy.

The information, which was submitted at your hearing, revealed that you were receiving Food Stamps beyond the second 3-month limit while meeting the work requirement, and your job ended, which caused your eligible exemption to end.

It is the decision of the State Hearing Officer to uphold the action of the Department to close your Food Stamp case.

Sincerely,

Sharon K. Yoho
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Dinchy, DHHR

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

Claimant.

v. Action Number: _____

**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 July 12, 2005 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. This fair hearing was convened on July 12 on a timely appeal, filed May 11, 2005.

It should be noted here that the clients benefits were not continued pending a hearing decision as he was at the end of a certification period at the time of closure.

II. PROGRAM PURPOSE:

The Program entitled Food Stamps is set up cooperatively between the Federal and State governments and administered by the West Virginia Department of Health & Human Resources.

The purpose of the Food Stamp Program 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 EBT 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
Paul Denchy, DHHR Family Support Supervisor

Presiding at the Hearing was Sharon K. Yoho, State Hearing Officer and a member of the State Board of Review.

IV. QUESTIONS TO BE DECIDED:

The question(s) to be decided is whether the Agency was correct in their actions to close the Food Stamp case.

V. APPLICABLE POLICY:

West Virginia Income Maintenance Manual Policy § 9.1

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 ABAWD 36 Month Tracking form
- D-2 West Virginia Income Maintenance Manual Policy § 9.1
- D-3 Notice of closure dated May 11, 2005

VII. FINDINGS OF FACT:

- 1) Ms. _____ had received Food Stamps as an Able Bodied Adult Without Dependents (ABAWD) for three (3) months in January 2003 thru March 2003. These benefits continued due to a pending hearing process until June 2004. They were then closed because Mr. _____ did not appear for the hearing.
- 2) The claimant's case was reopened for September 2004 thru November 2004 for a second three (3) month ABAWD period. This exemption was due to a recent work period of 80 hours in a 30-day period. He continued his work at _____ at over 20 hours per week, which gave him eligible status by meeting a work requirement exemption to the ABAWD policy.
- 3) On May 10, 2005, Mr. _____ came in to the DHHR office to complete a review of his Food Stamp case and reported at that time that his job at _____ had ended. His job had ended on May 6, 2005.
- 4) On May 11, 2005, the caseworker issued a letter of closure, as Mr. _____ was no longer meeting the work requirement, which had provided him with an exemption to the ABAWD policy.
- 5) Mr. _____ voiced his concern that his Food Stamps were being closed at a time when he had no employment and needed them even more than when he is working.

6) **West Virginia Income Maintenance Manual § 9.1 - FOOD STAMP ELIGIBILITY DETERMINATION GROUPS:**

NOTE: For all the following possible AG, an individual who meets the definition of an ABAWD in item j below can only receive AG benefits when he is otherwise eligible and:

An individual who meets the definition of an ABAWD can only receive AG benefits when he is otherwise eligible and:

Is meeting the work requirements; or

Is residing in a Non-Issuance Limited County; or

Regains eligibility after meeting the ABAWD work requirement, becoming exempt, or moving to a Non-Issuance Limited County; or

Is in the first or second 3-month limit period while not meeting the work requirement or being exempt.

7) **West Virginia Income Maintenance Manual § 9.1 - FOOD STAMP ELIGIBILITY DETERMINATION GROUPS:**

Able-Bodied Adults Without Dependents (ABAWD)

(1) Definition of ABAWD

An ABAWD is any individual age 18 or over, but not yet age 50.

An individual who turns 18 becomes an ABAWD in the month following his birthday. An individual is no longer an ABAWD in the month of his 50th birthday.

(2) Exemptions

Receiving Food Stamps while exempt does not count toward the 3-month limit. An Individual is exempt if he:

- Lives with an individual under age 18. The individual under age 18 does not have to be in the AG.

- Is responsible for the care of an incapacitated person, whether or not the person receiving the care resides with the client and whether or not the incapacitate person is a member of the Food Stamp AG; or

- Is receiving UCI as the result of registering with BEP; This includes persons receiving benefits under the Trade Readjustment Act (TRA); or

- Is medically certified as physically or mentally unfit for employment according to the provisions in Section 12.15; or

-Is a pregnant woman, regardless of the expected date of delivery; or

- Is a regular participant in a drug addiction or alcoholic treatment and rehabilitation program either on a resident or non-resident basis; or

- Is a student enrolled at least half-time in any recognized school, training program or institution of higher education. A student must meet one of the exceptions to the restriction on student participation listed in Chapter 9; or
- Resides in one of the following ILC's: Brooke, Doddridge, Hancock, Hardy, Marshall, Monroe, Pendleton, Putnam, Randolph, Taylor, Tyler; or
- Is hired for work at least 30 hours per week; or
- Is hired for work paying the equivalent of at least 30 hours times the minimum wage per week.

VIII. CONCLUSIONS OF LAW:

- 1) Policy is clear in Chapter 9.1 that a client who is classified as an Able Bodied Adult Without Dependents (ABAWD) is only eligible for two three (3) month periods without meeting one of the exemptions as listed above. Mr. _____ resides alone and did not meet any of the specified exemptions to the ABAWD policy at the time of closure.

IX. DECISION:

I find that the claimant was no longer eligible for his Food Stamps to continue following his previous certification period. I rule to **uphold** the agency in actions proposed in the May 11, 2005 notification letter, which advised of case closure.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 21th Day of July 2005.

Sharon K. Yoho
State Hearing Officer