



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

Joe Manchin III
Governor

Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary

June 4, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 21, 2010. Your hearing request was based on the Department of Health and Human Resources' proposal to reduce your Supplemental Nutrition Assistance Program (SNAP) benefits due to your daughter's status as an ineligible student.

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 Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for SNAP is based on current policy and regulations. These regulations provide that an individual is considered an eligible student for SNAP purposes if the student is the natural, adoptive, or stepparent of and is responsible for the care of an AG member between the ages of 6 and 12 and adequate child care is not available to enable the student to attend class and satisfy the 20-hour work requirement or participate in a state- or federally-financed college work study program during the regular school year. (WV Income Maintenance Manual § 9.1)

The information submitted at your hearing revealed that your daughter does not meet any exemptions found in policy to be an eligible student for SNAP.

It is the decision of the State Hearing Officer to **Uphold** the proposal of the Department to reduce your SNAP benefits based on your daughter's ineligibility for the program.

Sincerely,

Kristi Logan
State Hearing Officer
Member, State Board of Review

cc: Chairman, Board of Review
Phyllis Billings, Economic Service Supervisor

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

-----,

Claimant,

v.

Action Number: 10-BOR-1155

**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 May 21, 2010 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.

It should be noted here that the claimant's benefits under the Supplemental Nutrition Assistance Program have continued pending a decision.

II. PROGRAM PURPOSE:

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

The purpose of the 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 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

-----, Witness for Claimant

Phyllis Billings, Economic Service Supervisor

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

This hearing was held by videoconference.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether or not the Department's proposal to reduce Claimant's SNAP benefits is correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual Section 9.1 A(2)f

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Hearing/Grievance Record Information
- D-2 Hearing Request received March 15, 2010
- D-3 Notification Letter dated March 11, 2010
- D-4 WV Income Maintenance Manual § 2.2 D and 9.1 A
- D-5 Hearing Summary

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Claimant had a SNAP review on March 10, 2010. He reported to his caseworker that his daughter, -----, was a full time student at [REDACTED] College. A notification letter was issued by the Department on March 11, 2010 which read in pertinent parts (D-3):

Your SNAP will decrease from \$367.00 to \$200.00 effective 4/1/10. The number of people receiving this benefit has decreased.

----- is an ineligible student.

- 2) Phyllis Billings, Economic Service Supervisor, testified that Claimant's daughter did not meet any of the exemptions in policy that would allow her to be an

eligible student for SNAP. The exclusion of Claimant's daughter from the Assistance Group (AG) caused a reduction in his SNAP allotment.

- 3) Claimant testified that his daughter is enrolled in a college work study program at ██████████ College but at this time, the program is not operational. Claimant stated he did not feel they should be penalized because of this. Claimant admitted his daughter did not meet any of the student exemptions as found in policy.
- 4) WV Income Maintenance Manual Section 9.1 A(2)f states:

f. Students

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.

It is first necessary to determine if any member of the SNAP AG is considered a student as found below in item (1).

For individuals determined to be students, participation in the SNAP Program is limited to those students who meet the criteria in item (2) below.

NOTE: Any student who lives in a dormitory operated by the school and receives the majority of his meals from the school is ineligible to participate in the SNAP Program regardless of whether or not he meets an exception to the policy in this item. See Section 8.2.

(1) Determination of Applicability of the Student Policy

If a member of the SNAP AG is a student and meets any one of the following criteria, he is not considered a student for SNAP purposes, and eligibility is determined as for any other individual. He does not have to meet one of the exceptions to the restriction on student eligibility in item (2) below in order to qualify.

An individual is not considered a student if:

- He is under age 18.
- He is age 50 or over.
- He is physically or mentally disabled.
- He is attending high school.

- He is attending school less than half-time.

- He is enrolled full-time in a school or training program which does not meet the definition of an institution of higher education. Vocational schools which are a substitute for high school are not considered institutions of higher education. An institution of higher education is a business, technical, trade or vocational school that normally requires a high school diploma or its equivalent for enrollment in the curriculum or a college or university that offers degree programs whether or not a high school diploma is required for a particular curriculum. For this definition, a college includes a junior, community, 2-year or 4-year college.

- He is participating in an on-the-job training program. This does not include the practical experience requirements which may be part of some courses of study, i.e., student teaching, internships, etc. A person is considered to be participating in on-the-job training, and thus not considered a student, during the period of time that he is being trained by the employer. During the period of time that he is only attending classes, he is considered a student.

Any other student must meet one of the exceptions to the restriction on student eligibility in item (2) below to qualify for SNAP benefits.

(2) Students Eligible to Participate

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. However, self-employed persons must be employed at least 20 hours per week or 80 hours a month, and receive weekly earnings at least equal to the federal minimum wage multiplied by 20 hours or monthly earnings equal to the federal minimum wage multiplied by 80 hours.

- The student is participating in a state- or federally-financed CWS program during the regular school year. Participation means that the student has been approved for CWS during the school term and anticipates actually working during that time. To qualify for this exception, the student must be approved for CWS at the time of

application. The exception begins with the month in which the school term begins or the month CWS is approved, whichever is later. Once begun, the exception continues until the end of the month in which the school term ends, or it becomes known that the student refused an assignment. The exception is lost between school terms when there are breaks of a full month or longer for which CWS has not been approved.

- The student is included in a WV WORKS payment.

- The student is assigned to or placed in an institution of higher education through one of the following. The exception is lost during summer breaks or any other time the student is not in school. The individual's status need not be mandatory for the exception to apply.

* The SNAP Employment and Training Program (SNAP E&T)

* Workforce Investment Act (WIA)

* Section 236 of the Trade Act of 1974

* An employment and training program for low-income households that is operated by a state or local government when one or more of the program's components is at least equivalent to SNAP E&T.

- The student has the principal responsibility for the care of a child who meets certain criteria. No more than one person may be responsible for the care of each child. There are three separate exceptions detailed below and followed by a summary chart.

- The student is the natural, adoptive, or stepparent of and is responsible for the care of an AG member under the age of 6.

- The student is the natural, adoptive, or stepparent of and is responsible for the care of an AG member between the ages of 6 and 12 and adequate child care is not available to enable the student to attend class and satisfy the 20-hour work requirement or participate in a state- or federally-financed CWS program during the regular school year.

- The student is the single parent (natural, adoptive, or stepparent), regardless of marital status, and is responsible for an AG member under age 12, regardless of the availability of adequate child care, and is enrolled full-time, as defined by the institution.

This applies in situations where only one natural, adoptive or stepparent, regardless of marital status, is in the same AG with the child.

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that individuals who meet the definition of a student, unless exempt, are ineligible to participate in SNAP.
- 2) Claimant's daughter meets the definition of a student and does not meet any of the exemptions to be eligible for SNAP.
- 3) The Department correctly determined Claimant's daughter as an ineligible student, thereby reducing Claimant's SNAP allotment.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the proposal of the Department to reduce Claimant's SNAP benefits due his daughter's status as an ineligible student.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision
Form IG-BR-29

ENTERED this 4th day of June 2010.

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