



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

February 24, 2010

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held February 23, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to reduce your Supplemental Nutrition Assistance Program (SNAP) benefits due to your status as an ineligible college 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 SNAP is based on current policy and regulations. These regulations provide that unless certain exemptions are met, individuals who meet the definition of a student are not eligible to participate in SNAP (WV Income Maintenance Manual § 9.1 A)

The information submitted at your hearing revealed that you do not meet the exemptions as stated in policy to be an eligible student for SNAP.

It is the decision of the State Hearings Officer to **Uphold** the action of the Department to exclude you from participation in SNAP as an ineligible student.

Sincerely,

Kristi Logan
State Hearings Officer
Member, State Board of Review

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

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

-----,

Claimant,

v.

Action Number: 10-BOR-772

**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 February 23, 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. This fair hearing was convened on February 23, 2010 on a timely appeal, filed February 1, 2010.

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 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
Diana Burroughs, Economic Service Worker

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 decision to reduce Claimant's SNAP allotment was correct.

V. APPLICABLE POLICY:

WV Income Maintenance Manual § 9.1 A(2)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

- D-1 Notification Letter dated January 25, 2010
- D-2 WV Income Maintenance Manual § 2.2 and 9.1

Claimants' Exhibits:

None

VII. FINDINGS OF FACT:

- 1) Claimant had a SNAP review on January 22, 2010. Claimant reported to her caseworker, Diana Burroughs, that she was attending college full-time at [REDACTED] College. SNAP benefits were recertified and a notification letter dated January 25, 2010 was issued by the Department which read in pertinent parts (D-1):

Your SNAP will decrease from \$163.00 to \$103.00 effective 3/1/10.
The number of people receiving this benefit has decreased.
----- is an ineligible student.

The Department contends that Claimant does not meet any of the student exemptions as found in policy to be included in the SNAP assistance group (AG). The result of Claimant being removed from the SNAP AG was a decrease in her SNAP allotment.

- 2) Claimant gave testimony that she drives four (4) hours a day to attend college and does not feel like she would be able to work and attend school at the same time. Claimant stated she thought attending school full-time met the work requirements for SNAP.
- 3) WV Income Maintenance Manual § 9.1 A(2)f(1-2) 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.

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 restrictions on student eligibility in order to qualify.

An individual is not considered a student if:

- He is under age 19
- 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 institute of higher education
- He is participating in an on-the-job training program

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
- The student is participating in a state- or federally-financed College Work Study program during the regular school year
- 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 SNAP Employment and Training Program
 - Workforce Investment Act
 - An employment and training program for low-income households that is operated by a state or local government
- The student has the principal responsibility for care of a child who meets certain criteria (child must be age 12 and under)

VIII. CONCLUSIONS OF LAW:

- 1) Policy dictates that unless certain exemptions are met, participants who meet the definition of a student are not eligible to be included in a SNAP assistance group.
- 2) Claimant meets the definition of an ineligible student and does not have any exemptions to make her otherwise eligible for participation in SNAP.
- 3) The Department's decision to exclude Claimant from SNAP is correct.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to exclude Claimant from participation in SNAP.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this 24th day of February 2010.

Kristi Logan
State Hearing Officer