



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
4190 Washington Street, West  
Charleston, WV 25313

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

May 27, 2010

-----  
-----  
-----

Dear -----:

Attached is a copy of the findings of fact and conclusions of law on your hearing held May 20, 2010. Your hearing request was based on the Department of Health and Human Resources' decision to terminate your benefits through the Supplemental Nutrition Assistance Program (SNAP) based on its determination that you are no longer disabled and exempt from the Able-Bodied Adults Without Dependents (ABAWD) work requirements.

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 benefits is based on current policy and regulations. Some of these regulations state that all SNAP recipients are subject to a work requirement, unless exempt. An ABAWD is any individual who is 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. One exemption to this policy is when an individual is medically certified as physically or mentally unfit for employment. This policy also provides that an individual is eligible for three (3) months SNAP eligibility without meeting the ABAWD work requirement or being exempt. (West Virginia (WV) Income Maintenance Manual Section 9.1)

Information submitted at your hearing reveals that you did not receive three (3) months SNAP eligibility without meeting the ABAWD work requirement or being exempt.

It is the decision of the State Hearing Officer to **reverse** the decision of the Department to terminate your SNAP effective March 1, 2010.

Sincerely,

Cheryl A. Henson  
State Hearing Officer  
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review  
Alan Rueda, [REDACTED] DHHR

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

-----,

**Claimant,**

**v.**

**Action Number: 10-BOR-856**

**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 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. The hearing was convened on May 20, 2010.

**II. PROGRAM PURPOSE:**

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

Alan Rueda, Income Maintenance Worker, (b)(6) DHHR

Presiding at the hearing was Cheryl A. Henson, State Hearing Officer and a member of the State Board of Review.

#### **IV. QUESTION TO BE DECIDED:**

The question to be decided is whether or not the Department was correct in its decision to terminate the Claimant's SNAP benefits based on no longer being disabled.

#### **V. APPLICABLE POLICY:**

West Virginia Income Maintenance Manual § 9.1

#### **VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:**

##### **Department's Exhibits:**

None

##### **Claimant's Exhibits:**

None

#### **VII. FINDINGS OF FACT:**

- 1) Testimony supports that on or about January 19, 2010, the Department notified the Claimant that his SNAP would terminate effective March 1, 2010 due to its determination that he is now classified as an ineligible Able-Bodied Adult Without Dependents (ABAWD).
- 2) The Department representative, Alan Rueda, testified that he was not the employee who worked on this case. He added that based on his review of the case circumstances, the Claimant was previously considered disabled for SNAP purposes because he was receiving SSI-Related Medicaid based on a disability. This disability met an exception to the Able-Bodied Adults Without Dependents (ABAWD) policy and therefore he was not required to participate with Food Stamp Employment and Training (FSET) at that time. He also provided that the Claimant's SSI Related Medicaid case was closed effective February 2010 for failure to complete a medical review.
- 3) Mr. Rueda went on to explain that, for SNAP, the ABAWD policy was required to be met by the Claimant after his SSI-Related Medicaid case was closed because he was forty nine (49) years old and the Department no longer considered him to be exempt due to disability.
- 4) Neither the Department nor the Claimant submitted any written evidence for the purposes of this hearing.
- 5) The Claimant was forty-nine (49) years of age at the time of the Department's action. He became fifty (50) years old prior to this hearing, on May 10, 2010. The parties agree that the Claimant was subject to the ABAWD policy at the time of the Department's action.

- 6) West Virginia Income Maintenance Manual, Chapter 9.1.A. (2) m and (3) states in pertinent part:

**Able-Bodied Adults Without Dependents (ABAWD)**

For any AG listed above, any individual who meets the definition of an ABAWD below and who is normally required to be included in the AG, can only receive benefits when he is otherwise eligible and:

- Is meeting an exemption listed in item (2) below; or
- Is meeting the work requirements outlined in item (3) below; or
- Is residing in a Non-Issuance Limited County (NILC); or
- Is in the first 3-month limit period while not meeting the ABAWD work requirement or being exempt

**(1) Definition of ABAWD**

An ABAWD is any individual who is 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 50<sup>th</sup> birthday.

**(2) Exemptions**

SNAP benefits received while exempt do not count toward the 3-month limit. An individual is exempt if he:

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

These exemptions qualify the individual to participate immediately, if otherwise eligible, regardless of how many months of benefits he has already received.

**(3) ABAWD Work Requirement**

As long as an ABAWD is exempt as found in item (2) above or meets either of the 2 requirements below, he may receive SNAP benefits, if otherwise eligible. Otherwise, he is ineligible once he has received SNAP benefits for 3 months without being exempt or meeting the ABAWD work requirement.

**VIII. CONCLUSIONS OF LAW:**

- 1) Policy and regulations that govern the SNAP Program direct that recipients between the ages of eighteen (18) and up to fifty (50) years of age who are not otherwise exempt (employed, aged and/or disabled, etc. . .) must meet ABAWD work requirements. An individual is no longer an ABAWD in the month of his fiftieth (50<sup>th</sup>) birthday. The Claimant was forty nine (49) years of

age at the time of the Department's action; therefore, he was subject to the Department's ABAWD policy for SNAP eligibility.

- 2) Policy also provides that an individual is eligible to receive SNAP for three months in a thirty six (36) month period while not meeting the ABAWD work requirement or being exempt from the ABAWD policy. The evidence fails to show the Claimant received his three (3) months SNAP eligibility while not meeting the ABAWD work requirement or being exempt; therefore, the Claimant was eligible for SNAP based on this policy for the months of March and April 2010. Effective May 2010, the Claimant became fifty (50) years old and is no longer considered an ABAWD.
- 3) The Department was not correct in its decision to terminate the Claimant's SNAP effective March 1, 2010.

#### **IX. DECISION:**

Based on the evidence presented during the hearing, and the applicable policy and regulations, the Department's proposal to terminate the Claimant's SNAP benefits effective March, 1, 2010 is **reversed**.

#### **X. RIGHT OF APPEAL:**

See Attachment

#### **XI. ATTACHMENTS:**

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

**ENTERED this 28<sup>th</sup> Day of May, 2010.**

---

**Cheryl A. Henson  
State Hearing Officer  
Member, State Board of Review**