



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

April 13, 2016



RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1389

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

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.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Tera Pendleton, WV DHHR, [REDACTED] Office

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

██████████,

Appellant,

v.

ACTION NO.: 16-BOR-1389

**WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (WV DHHR) Common Chapters Manual. This fair hearing was convened on April 12, 2016, on an appeal filed February 25, 2016. This hearing originally was scheduled for March 29, 2016, but was rescheduled at the Department's request.

The matter before the Hearing Officer arises from the January 22, 2016 decision by the Respondent to reduce the Appellant's Supplemental Nutritional Assistance Program (SNAP) benefits from \$448 to \$357 per month.

At the hearing, the Respondent appeared by Representative Christina Brown, Family Support Specialist. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 SNAP Case Recordings, dated December 29, 2015 through March 3, 2016
- D-2 Letter of Enrollment Verification Form from ██████████ University, ██████████ WV, dated January 8, 2016
- D-3 Print-out from Appellant's SNAP case record indicating her son was listed as a full-time college student
- D-4 Letter from Department to Appellant, dated January 22, 2016
- D-5 WV Income Maintenance Manual (IMM), Chapter 9, §9.1A.2.f

Appellant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) On January 22, 2016, the WV Department of Health and Human Resources (DHHR) issued to the Appellant a letter (Exhibit D-4) informing her that her monthly allotment of SNAP benefits would be \$357 per month beginning in March 2016. Her previous SNAP allotment amount was \$448. The Appellant requested a fair hearing to protest this reduction.
- 2) On January 11, 2016, the Appellant submitted to the WV DHHR, [REDACTED] County Office, an enrollment verification form (Exhibit D-2) indicating that her son was a full-time college student and had started attending college in the fall semester of 2015.
- 3) A worker at the WV DHHR, [REDACTED] Office, entered this information in the Appellant's case record on January 21, 2016 (Exhibit D-3). Because the Appellant's son was listed as a full-time college student, he was removed from the Appellant's SNAP assistance group (AG).

APPLICABLE POLICY

The WV Income Maintenance Manual (WV IMM) Chapter 9, §9.1.A.2.f reads, "Unless certain exemptions are met, otherwise eligible individuals who meet the SNAP definition of a student are ineligible to participate in the [SNAP] Program and may not be a separate AG."

The WV IMM Chapter 9, §9.1.A.2.f(1) reads, "An institution of higher learning 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."

DISCUSSION

The Appellant testified that in January 2016, she received a letter from the Department to the effect that her son met the definition of an Able-Bodied Adult Without Dependents (ABAWD), and as such would be removed from her SNAP AG unless he met certain exemptions to the policy, one of which was full-time enrollment in college or vocational training. She testified that she submitted verification (Exhibit D-2) that he was enrolled in college on a full-time basis. She added that after she did this, she received another letter (Exhibit D-4) indicating that her son would be removed from the SNAP AG as an ineligible college student.

The Department's representative testified that the student policy superseded the ABAWD policy, and as a full-time college student, the Appellant's son was not eligible to be included in her SNAP AG.

The ABAWD notice the Appellant received stated as follows in part, "You are exempt or become exempt from [the ABAWD] requirements and may continue to receive SNAP benefits, if otherwise eligible, if one of the following applies to you . . ." The notice then lists the ABAWD exemptions, including the following, "You are a student enrolled at least half-time in any recognized school, training program or an institution of higher education."

The Department provided a confusing notice to the Appellant, which led her to believe that her son would continue to be included in SNAP AG if he was a full-time college student. However, policy states that full-time college students may not be included in a SNAP AG. Therefore, the Department acted correctly to reduce the Appellant's monthly SNAP from \$448 per month to \$357 per month.

CONCLUSIONS OF LAW

The Appellant verified that her son was a full-time college student. As such, the Department was correct to remove him from the Appellant's SNAP assistance group and to reduce the Appellant's SNAP monthly allotment accordingly, pursuant to WV IMM §9.1A.2.f.

DECISION

It is the decision of the state Hearing Officer to **uphold** the Department's reduction in the monthly amount of the Appellant's SNAP benefits from \$448 per month to \$357 per month in March 2016 due to a change in the shelter cost amount entered in the Appellant's case record.

ENTERED this 13th Day of April, 2016.

Stephen M. Baisden
State Hearing Officer