



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

May 5, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1539

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Kelly Davis, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 16-BOR-1539

**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' Common Chapters Manual. This fair hearing was convened on May 5, 2016, on an appeal filed March 18, 2016.

The matter before the Hearing Officer arises from the March 18, 2016 decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Leroy Hanshaw, Economic Service Worker. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, the Appellant's niece. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Hearing Summary

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) The Appellant completed a SNAP eligibility review on March 10, 2016. The Appellant reported that her niece, ██████████, attended college full-time.

- 2) The Appellant's niece was removed from her SNAP Assistance Group (AG) due to her status as a full-time college student.
- 3) The Appellant's SNAP benefits were reduced from \$636 to \$492 monthly, effective April 1, 2016.
- 4) The Appellant's niece was due to register with WorkForce West Virginia by January 23, 2016. A SNAP penalty was placed against Ms. [REDACTED] when it was determined that she had not complied with registration requirements.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §9.1A(2)f states that 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 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.
- 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.

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 (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.
- 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 (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 under age 6.

West Virginia Income Maintenance Manual §13.2 state that all SNAP recipients are subject to a work requirement, unless exempt. The following SNAP recipients are exempt from the SNAP work requirements and are not subject to a SNAP penalty for failure to comply.

- A person enrolled at least half-time in any recognized school, recognized training program, or institution of higher education. If enrolled in an institution of higher education, the student must meet one of the exceptions to the restriction on student participation listed in Section 9.1.

DISCUSSION

The Appellant's niece, Ms. [REDACTED] testified that she is working on obtaining two college degrees and due to her class schedule and workload, she does not have time to work. However, as a full-time college student, Ms. [REDACTED] is required to meet an exemption found in policy in order to participate in SNAP. Ms. [REDACTED] did not report any exemptions.

It should be noted that while Ms. [REDACTED] does not meet any exemptions in policy to continue receiving SNAP as a student, attending college full-time meets the work registration requirement, and therefore is not subject to a SNAP penalty.

CONCLUSIONS OF LAW

- 1) Whereas a member of the Appellant's assistance group meets the definition of a student and does not meet the exemptions found in policy to continue receiving SNAP benefits, the Department was correct to reduce her monthly SNAP allotment.
- 2) The Appellant's niece, although considered an ineligible student to participate in SNAP, meets the work registration requirements by attending school.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision by the Department to reduce the Appellant's SNAP allotment. It is furthermore **ORDERED** that the work registration penalty placed against [REDACTED] be removed.

ENTERED this 5th day of May 2016

Kristi Logan
State Hearing Officer