



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

June 8, 2016



RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-BOR-1896

Dear Mr. [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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Misty Cork, WVDHHR

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

██████████,

Appellant,

v.

Action Numbers: 16-BOR-1896

**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 June 2, 2016, on an appeal filed May 11, 2016.

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

At the hearing, the Respondent appeared by Misty Cork, Economic Services Supervisor, WVDHHR. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notices sent to Appellant on October 29, 2015, December 11, 2015, January 27, 2016, and February 19, 2016
- D-2 Work referral letter dated January 4, 2016, SNAP E&T appointment letter dated January 11, 2016, and notification form signed on January 21, 2016
- D-3 Statement from ██████████, D.O., dated January 27, 2016 (received by Department on February 9, 2016)
- D-4 Notice of Decision dated April 18, 2016

Appellant's Exhibits:

- A-1 Appellant's medical records

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 was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits and was notified by the Department on October 29, 2015 (D-1) that all Able-Bodied Adults Without Dependents (ABAWDs) living in ██████ County would be required to comply with a work requirement (or meet an exemption) as of January 1, 2016. The same letters were subsequently sent to the Appellant on December 11, 2015, January 27, 2016, and February 19, 2016 (D-1). The letters explain that a SNAP recipient who fails to meet the work requirement or establish an exemption can only be eligible for the SNAP for three (3) months before being removed from the program. A notice was also sent to the Appellant on January 4, 2016 (D-2) to inform him that he had been referred to work programs.
- 2) Misty Cork, Economic Services Supervisor (ESS) with the Department, testified that a SNAP Employment and Training Worker sent the Appellant a letter on January 11, 2016 (D-2), establishing an appointment for a meeting with the Appellant on January 21, 2016, to explain the program and establish a Personal Responsibility Plan. The Appellant failed to keep that appointment (see Exhibit D-2) and the SNAP Employment and Training Worker informed the Department that the Appellant had not complied.
- 3) The Appellant provided a letter (D-3) to the Department on February 9, 2016, from his attending physician. The letter, which indicates that the Appellant was in a vehicular accident in November 2015, does not provide a medical opinion concerning the Appellant's ability or inability to work. It states, "Per Mr. ██████ this condition causes him significant pain and disability which will not allow him to work."
- 4) The Department sent the Appellant a notice on April 18, 2016 (D-4), stating that his SNAP benefits would stop effective May 2016 because he had received SNAP benefits for the first three-month period of ABAWD tracking and had not met the work requirement.
- 5) The Appellant testified that he attempted to obtain another statement from his physician, but the doctor refused to provide the documentation. He stated that he would be working if he could, but that his back pain prevents him from finding employment. The Appellant indicated that he plans to see a spinal surgeon, and provided medical records concerning his health issue. The Appellant also testified that he has not been receiving his mail because the postman sometimes places it in the incorrect box at his apartment complex.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 9.1.A.2.n states that individuals who meet the definition of ABAWD can receive SNAP benefits when they are otherwise eligible, meet work requirements, and/or meet an exemption. An exemption can be granted when an individual has been medically certified as physically or mentally unfit for employment.

Chapter 12.15.C of the Manual states that to establish disability, a physician's statement must contain enough information to allow the worker to determine whether the client's condition renders him unfit for employment.

DISCUSSION

Individuals defined as ABAWDS can receive SNAP benefits when they are otherwise eligible, meet work requirements, and/or meet an exemption. An exemption can be granted when an individual has been medically certified as physically or mentally unfit for employment. While the Appellant provided a statement from his physician, the doctor did not certify that he is unable to work, but simply indicated that the Appellant stated he is unable to work. As the physician's statement provides no medical opinion concerning the Appellant's ability or inability to work, an exemption from the ABAWD policy cannot be granted.

CONCLUSIONS OF LAW

The Department acted correctly in terminating the Appellant's SNAP benefits effective May 2016.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department's action to terminate SNAP benefits effective May 2016.

ENTERED this 8th Day of June 2016.

**Pamela L. Hinzman
State Hearing Officer**

