



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

June 30, 2016



RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2015

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,

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

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

cc: Robert Meade, Family Support Specialist

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

████████████████████,

Appellant,

v.

ACTION NO.: 16-BOR-2015

**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 June 28, 2016, on an appeal filed May 26, 2016.

The matter before the Hearing Officer arises from the April 27, 2016 decision by the Respondent to discontinue the Appellant's receipt of Supplemental Nutritional Assistance Program (SNAP) benefits because he did not participate in the Able-Bodied Adults Without Dependents (herein ABAWD) Program or establish that he met an exemption to the Program.

At the hearing, the Respondent appeared by Representative Robert Meade, 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 Letter from Department to Appellant dated April 27, 2016
- D-2 WV Income Maintenance Manual (WV IMM), Chapter 9, §9.1.A.2.n
- D-3 Case Benefit Summary screen print from Appellant's SNAP case record
- D-4 ABAWD 36-Month Tracking screen print from Appellant's SNAP case record
- D-5 Disability/Incapacity screen print from Appellant's SNAP case record
- D-6 Medical Review Team Information screen print from Appellant's SNAP case record
- D-7 Employment Income screen print from Appellant's SNAP case record
- D-8 School Enrollment screen print from Appellant's SNAP case record

- D-9 Collection of letters from Department to Appellant, dated October 29, 2015, December 11, 2015, January 27, 2016, and February 19, 2016
- D-10 Verification Checklist Letters from Department to Appellant, dated March 28, 2016 and June 1, 2016
- D-11 Letter from Department to Appellant dated January 15, 2016
- D-12 ABAWD Program Participant recordings from Appellant's SNAP case record, dated October 19, 2009 to March 15, 2016
- D-13 Case recordings from Appellant's SNAP case record, dated July 31, 2015 to June 1, 2016

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) The Appellant was a recipient of SNAP benefits, living in [REDACTED] County, WV. The Department notified him in four separate letters, dated October 29, 2015, December 11, 2015, January 27, 2016 and February 19, 2016 (Exhibit D-9), that he met the definition of an Able-Bodied Adult Without Dependents (ABAWD), and as such he would be eligible for SNAP benefits for only three months unless he completed an educational or work activity for at least 20 hours per week or met an exemption to the ABAWD policy. This policy change took effect in January 2016.
- 2) The Appellant met with an eligibility worker at the WV DHHR, [REDACTED] office, on October 29, 2015 (Exhibit D-12). At this meeting, the worker explained the ABAWD policy which would take effect in January 2016. The Appellant indicated he met an exemption to the ABAWD policy in that he was "physically or mentally unfit for employment."
- 3) The Appellant did not provide documentation to verify his physical or medical incapacity to participate in the ABAWD program. The Department sent him verification checklists on March 28, 2016, and June 1, 2016 (Exhibit D-10), asking him to provide this information, but the Appellant failed to do so.
- 4) The Appellant received SNAP benefits in January, February, March and April, 2016. Because the Appellant did not meet the ABAWD work requirement or an exemption, he became ineligible for SNAP benefits effective May 1, 2016. Due to a malfunction in the State of West Virginia's SNAP computer system, the Appellant received an additional month of SNAP benefits (March 2016), even though he was not eligible for them according to the ABAWD policy.

- 5) The Department sent the Appellant a letter (Exhibit D-1) informing him that he would not be eligible for SNAP beginning in June 2016 because of the ABAWD policy. He requested a fair hearing based on the termination of the SNAP benefits.

APPLICABLE POLICY

WV Income Maintenance Manual (WV IMM) Chapter 9, §9.1.A.2.n, sets forth the Able-Bodied Adult Without Dependents or ABAWD policy and program requirements. This policy states that a SNAP recipient must participate in the ABAWD program if he or she is at least 18 years old, but not yet 50, and receives SNAP benefits in an assistance group (AG) that does not contain an individual under the age of 18. An individual is no longer an ABAWD in the month of his or her 50th birthday.

According to the ABAWD Program, a SNAP recipient may receive SNAP benefits for three months, whereupon he or she must: 1) work at least 20 hours per week or 80 hours per month; 2) participate in one of several work programs for at least 20 hours per week or 80 hours per month; or 3) participate in the SNAP Education and Training (E&T) program. If the recipient does not participate in one of these activities, he or she is not eligible for SNAP benefits after the initial three-month period until the ABAWD program ends in December 2018.

There are a number of exemptions to the ABAWD program. If a SNAP recipient meets one of these exemptions, he or she may continue to receive SNAP benefits after the initial three-month period, providing he or she continues to meet the exemption. These exemptions are: 1) caring for an incapacitated member of the AG; 2) receiving Unemployment Compensation Insurance (UCI); 3) being medically certified as physically or mentally unfit for employment; 4) receiving Veteran's Administration (VA) disability income; 5) being a pregnant woman; 6) participating in a drug addiction or alcoholism treatment program; 7) being a student in a recognized school, training program or institution of higher education; 8) working at least 30 hours per week or for payment equal to 30 hours per week multiplied by the federal minimum wage.

The ABAWD program does not apply to SNAP recipients throughout the entire state of West Virginia. There are only nine counties in West Virginia wherein a SNAP recipient who meets the ABAWD program requirements must participate or meet an exemption. Those counties are Berkeley, Cabell, Harrison, Jefferson, Kanawha, Marion, Monongalia, Morgan and Putnam.

DISCUSSION

The Appellant lives in [REDACTED] County, WV, and since he met the definition of an Able-Bodied Adult Without Dependents or ABAWD, he was required to participate in the ABAWD program or meet an exemption.

The ABAWD program began in January 2016. Beginning in October 2015, the Department sent to the Appellant a series of letters (Exhibit D-9), describing the ABAWD policy and program in brief, and informing the Appellant that he must participate in the program or meet one of the

exemptions. According to the Appellant's case recordings (Exhibit D-12), he went to the [REDACTED] County DHHR office on October 29, 2015, as part of his orientation to the ABAWD program. At that time, he indicated he met the "physically or mentally unfit for employment" exemption. The recordings indicate Department workers informed him he needed to provide a written statement from his physician to establish his inability to work. The Department's representative testified that the Appellant did not provide this written statement.

The Appellant testified that his primary care physician closed her practice in West Virginia and moved to [REDACTED]. He testified that he has not obtained another primary care physician as yet. He stated he had seen several physicians as part of his attempt to obtain Social Security Disability benefits, but these physicians only provided medical information for the Social Security Administration, and would not give him a written statement. The Appellant testified that he felt he should be exempt from the ABAWD program because it imposed an unreasonable hardship on him. He stated his home was in a very rural and remote area of [REDACTED] County. He stated he had to travel more than an hour just to get to the [REDACTED] DHHR office, and similarly lived far from the places where he could participate in the ABAWD program.

The Department informed the Appellant about the ABAWD policy in October 2015, well before the program took effect. As such, he had a reasonable amount of time in which to obtain a written statement from a medical professional regarding his inability to work. Also there is no hardship provision in ABAWD policy that would exempt him from participating because he lives in a remote area of [REDACTED] County. Therefore the Department acted correctly to discontinue his receipt of SNAP benefits.

CONCLUSIONS OF LAW

The Appellant did not participate in the ABAWD program and did not provide documentation to establish his exemption from the program. Pursuant to WV IMM §9.1.A.2.n, the Department acted correctly to discontinue the Appellant's receipt of SNAP benefits.

DECISION

It is the decision of the state Hearing Officer to **uphold** the Department's decision to discontinue the Appellant's receipt of SNAP benefits for failing to participate in the ABAWD program or to provide documentation establishing an exemption from participating.

ENTERED this 30th Day of June, 2016.

Stephen M. Baisden
State Hearing Officer