



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

November 7, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2659

Dear [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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Michalle Boren, Department Representative

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

██████████,

Appellant,

v.

Action Number: 16-BOR-2659

**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 September 29, 2016, on an appeal filed September 9, 2016.

The matter before the Hearing Officer arises from the Respondent's July 12, 2016 decision to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Michalle Boren. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Written case summary
- D-2 Duplicate hearing documents
- D-3 Supplemental Nutrition Assistance Program Employment & Training (SNAP E&T) Notification Form, dated July 8, 2016; Screen prints from the Respondent's data system regarding the Appellant's work participation hours; Notice of decision, dated July 12, 2016
- D-4 Screen prints of case comments regarding the Appellant's case from the Respondent's data system, entry dates from July 11, 2016, through September 20, 2016

D-5 Excerpts from the West Virginia Income Maintenance Manual (WVIMM): §9.1; §13.3; §13.6

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 in ██████ County, West Virginia – an Issuance Limited County (ILC).
- 2) The Appellant was an Able-Bodied Adult Without Dependents (ABAWD) with a 36-month tracking period from January 2016 through December 2018. (Exhibit D-3)
- 3) The Appellant used two months of ABAWD eligibility – January 2016 and February 2016. (Exhibit D-4)
- 4) The Appellant did not meet work participation requirements for ABAWD eligibility in April 2016, May 2016, June 2016 and July 2016. (Exhibits D-3 and D-4)
- 5) The Respondent notified the Appellant that his SNAP benefits would be terminated because he “received SNAP for the first 3 month period without meeting the work requirement.” (Exhibit D-3)

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), at §9.1.A.2, establishes who cannot be included in an assistance group (AG) for SNAP.

At §9.1.A.2.n, policy provides for individuals meeting the definition of an ABAWD to receive SNAP benefits in an Issuance Limited County (ILC) while “meeting the work requirements” in §9.1.A.2.n(3), or while in the “first 3-month limit period while not meeting the ABAWD work requirement.”

At §9.1.A.2.n(1), policy defines an ABAWD as “any individual who is age 18 or older, but not yet age 50.”

DISCUSSION

The Appellant requested a hearing to contest the decision of the Respondent to terminate his SNAP benefits. The Respondent terminated these benefits based on time limits and work requirements tied to SNAP eligibility for ABAWD individuals.

The Respondent must show, by a preponderance of the evidence, that the Appellant was an ABAWD and exceeded the limits on receipt of SNAP for such individuals.

Testimony from both parties clearly established the Respondent acted correctly in this matter. There was no dispute that the Appellant met the ABAWD definition and was bound by the ABAWD policy requirements for individuals residing in an ILC. There was no dispute of the fact the Appellant received SNAP benefits in two months without any work participation – January and February 2016. The Respondent showed the Appellant did not meet the ABAWD work requirements for four additional months, and would only have needed to demonstrate this for one month to show that the Appellant had exhausted the limit of three months of SNAP benefits within a 36-month tracking period.

The Respondent relied on information from a SNAP employment and training worker to determine that the Appellant did not meet ABAWD work requirements for four additional months. The Appellant provided unconvincing testimony that disputed this information related to his work requirements for two of the months, but offered nothing to support this testimony or address the other two months he received SNAP benefits without meeting ABAWD work requirements. Even if this testimony had been convincing, it would have been insufficient to establish the Appellant had any remaining months of SNAP eligibility left in his 36-month tracking period.

The Respondent was correct to terminate the Appellant's SNAP benefits based on the time limits and work requirements for otherwise-eligible ABAWD individuals.

CONCLUSIONS OF LAW

- 1) Because the Appellant was an otherwise-eligible ABAWD individual, his receipt of SNAP was either contingent upon meeting work requirements or limited to three months of SNAP benefits within a 36-month tracking period.
- 2) Because the Appellant exceeded this three month limit and failed to participate in work requirements for all subsequent months, the Respondent was correct to terminate his SNAP benefits on this basis.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's termination of the Appellant's SNAP benefits.

ENTERED this ____ Day of November 2016.

**Todd Thornton
State Hearing Officer**