



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

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

February 17, 2017



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-1115

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: Janee Scott, Economic Service Supervisor

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

██████████,

**Appellant,**

**v.**

**ACTION NO.: 17-BOR-1115**

**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 February 8, 2017, on an appeal filed January 19, 2017.

The matter before the Hearing Officer arises from the January 18, 2017 decision by the Respondent to reduce the Appellant's monthly allotment of Supplemental Nutrition Assistance Program (SNAP) benefits because his son, who lives in his home and is a member of the SNAP assistance group (AG), is an ineligible college student who does not meet an exception to the SNAP college student policy.

At the hearing, the Respondent appeared by Representative Janee Scott, Economic Service Supervisor. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Case summary
- D-2 Case recordings from Appellant's SNAP case record, dated January 17-18, 2017
- D-3 Letter from Department to Appellant, dated January 18, 2017
- D-4 WV Income Maintenance Manual (WV IMM), Chapter 9, §9.1.A.2

**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 17, 2017, the Appellant called the WV DHHR's Customer Service Center – South (CSC-South), to inquire about his application for the Low-Income Energy Assistance Program. The CSC-South worker who answered the Appellant's call recorded that the Appellant informed him or her the Appellant's son was a full-time college student (Exhibit D-2).
- 2) The CSC-South worker recorded (Exhibit D-2) that based on this information, he or she removed the son from the Appellant's SNAP assistance group (AG).
- 3) On January 18, 2017, the Department sent to the Appellant a letter (Exhibit D-3) informing him that his college-student son was removed from his SNAP AG, and that his monthly SNAP benefit issuance would be reduced from \$201 per month to \$46 per month, effective February 1, 2017.
- 4) The Appellant submitted a fair hearing request based on the removal of his son from his SNAP AG and the subsequent reduction of his monthly SNAP benefit amount.

### **APPLICABLE POLICY**

WV Income Maintenance Manual (WV IMM) Chapter 9, §9.1.A.2.f reads as follows in part:

Unless certain exemptions are met, otherwise eligible individuals who meet the SNAP definition of a [full-time college] student are ineligible to participate in the program and may not be a separate AG.

WV IMM Chapter 9, §9.1.A.2.f (1) reads as follows in part:

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.

An individual is not considered a student if:

- He is under age 18.
- He is age 50 or over.
- He is physically or mentally disabled. See Section 12.15.
- 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.

WV IMM Chapter 9, §9.1.A.2.f (2) reads as follows in part:

Students who meet one or more of the following criteria are eligible to participate [in SNAP], 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-funded [College Work Study] program during the regular school year;
- 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)
  - The Workforce Investment Act
  - 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 who meets certain criteria:
  - The student is the natural, adoptive or stepparent of and is responsible for the care of an [Assistance Group] member under the age of 6;
  - The student is the natural, adoptive or stepparent of and is responsible for the care of an [Assistance Group] member who has reached the age of 6 but is under age 12 and adequate child care is not available;
  - The student is the single parent (natural, adoptive or stepparent), regardless of marital status, and is responsible for an [Assistance Group] member under age 12, regardless of the availability of adequate child care.

## **DISCUSSION**

On January 17, 2017, the Appellant made a telephone call to the WV DHHR's CSC-South, to inquire about his application for LIEAP. While talking to a CSC-South worker, he mentioned that his son, a member of his SNAP AG, was a full-time college student. The worker recorded this information in the Appellant's SNAP case record (Exhibit D-2), and removed the son from the Appellant's SNAP AG.

The Appellant testified that he felt it was discrimination to remove his son from his SNAP AG, because his son was removed from his benefits merely for attempting to better himself by getting a college education. He testified that the conversation with the CSC-South worker became

contentious, and the worker was rude. He stated the worker compared his son to a convicted drug felon, in that as long as he was a college student, he never would be included in a SNAP AG.

The Department's representative testified that it was a matter of policy to remove full-time college students from SNAP AGs unless they met certain exemptions. She testified there were two sets of exemptions, one that exempted a college student from being considered a student for the purposes of SNAP, and the other that exempts students from the policy requirement that college students be ineligible for SNAP.

The Appellant did not claim an exemption for his son from either set of criteria. He stated he felt he and his son were being discriminated against because his son was going to college to improve his chance for employment and to better himself. He stated he believed the policy was wrong to exclude college students.

Although the SNAP college student policy is controversial, it is the policy under which the WV DHHR must administer the program. Since the Appellant's son did not meet an exemption or exemptions to the SNAP college student policy, the Department acted correctly to remove the Appellant's son from his SNAP Assistance Group because he was an ineligible college student.

### **CONCLUSION OF LAW**

The Appellant's son was removed from the Appellant's SNAP Assistance Group because he was a full-time college student and did not meet an exemption to the college student policy, pursuant to WV IMM §9.1.A.2.f. The Department acted correctly to remove the son from the Appellant's Assistance Group, thus decreasing his monthly SNAP benefit allotment.

### **DECISION**

It is the decision of the state Hearing Officer to **uphold** the Department's decision to reduce the Appellant's monthly SNAP benefit allotment.

**ENTERED this 17<sup>th</sup> Day of February, 2017.**

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**Stephen M. Baisden**  
**State Hearing Officer**