



April 7, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-1235

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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

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

cc: Tiffany Cobb, Department Representative  
**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES**  
**BOARD OF REVIEW**

[REDACTED],

**Appellant,**

**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 [REDACTED]. 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 March 7, 2017, on an appeal filed February 8, 2017.

The matter before the Hearing Officer arises from the Respondent's January 30, 2017 decision to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

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

**Department's Exhibits:**

- D-1 West Virginia Income Maintenance Manual (WVIMM), §9.1 (excerpt)
- D-2 WVIMM, §13.2 (excerpt)
- D-3 Case summary

**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.

- 2) The Appellant's daughter is a college student.
- 3) The Appellant's daughter does not meet any of the criteria for excluding students from the SNAP definition of student.
- 4) The Appellant's daughter does not meet any of the criteria for allowing individuals meeting the SNAP definition of student to participate in the program.
- 5) The Respondent notified the Appellant of a reduction in her SNAP benefits based on the exclusion of the Appellant's daughter from her assistance group based on SNAP student policy.

### **APPLICABLE POLICY**

The West Virginia Income Maintenance Manual (WVIMM) defines the SNAP Assistance Group (AG) at §9.1.A, by establishing the individuals who must be included and the individuals who cannot be included.

At §9.1.A.f, this policy establishes students as individuals who cannot be included. However, there are two categories of exceptions: students who do not meet the narrower definition of student for SNAP purposes, and individuals who are students by the SNAP definition who meet certain exceptions.

At §9.1.A.f(1), policy notes that an individual is not considered a student for SNAP purposes if that individual is: under age 18; age 50 or over; is physically or mentally disabled; attending high school; attending school less than half-time; enrolled full-time in a school or training program which does not meet the definition of an institution of higher education; or, is participating in an on-the-job training program.

At §9.1.A.f(2), policy allows individuals defined as students for SNAP purposes to participate in SNAP (if otherwise eligible) if the student is: employed at least 20 hours per week or 80 hours a month, and is paid for the employment; participating in a state- or federally-financed college work study program; included in a WV WORKS payment; assigned to or placed in an institution of higher education through one of the listed employment and training programs; or, has the primary responsibility for the care of a child and meets additional listed criteria.

### **DISCUSSION**

The Respondent reduced the Appellant's SNAP benefits due to SNAP student policy requiring the exclusion of her daughter from her SNAP AG. The Appellant requested this hearing to contest the Respondent's action. The Respondent must show by a preponderance of the evidence that the Appellant's daughter should be excluded based on this policy.

There was no dispute of the fact that the Appellant's daughter is a student. There was no testimony or evidence to indicate the Appellant met any criteria preventing her from meeting the narrower student definition for SNAP purposes. There was no testimony or evidence that the

Appellant's daughter met any of the criteria that potentially allows students to participate in SNAP.

The Respondent established that the Appellant's daughter was an ineligible student and was correct to reduce her SNAP benefits by excluding her daughter from the SNAP AG.

### **CONCLUSIONS OF LAW**

- 1) Because the Appellant's daughter does not meet any of the policy exceptions outlined in WVIMM, §9.1.A.f(1), she is defined as a student for SNAP purposes.
- 2) Because the student does not meet any of the additional exceptions outlined in WVIMM, §9.1.A.f(2), the Respondent must reduce the Appellant's SNAP benefits by excluding her from the Appellant's SNAP AG.

### **DECISION**

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

**ENTERED this \_\_\_\_ Day of April 2017.**

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**Todd Thornton**  
**State Hearing Officer**