



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
4190 West Washington Street  
Charleston, WV 25313

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

April 4, 2017



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 17-BOR-1445

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,

Natasha Jemerison  
State Hearing Officer  
Member, State Board of Review

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

cc: Robert Meade, FSS

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

██████████,

**Appellant,**

v.

**Action Number: 17-BOR-1445**

**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 March 29, 2017, on an appeal filed March 10, 2017.

The matter before the Hearing Officer arises from the January 26, 2017 decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits due to the Able-Bodied Adult Without Dependents (ABAWD) policy.

At the hearing, the Respondent appeared by Robert Meade, Family Support Specialist. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Decision, dated February 7, 2017
- D-2 West Virginia Income Maintenance Manual §§9.1, and 12.15
- D-3 Case Summary, Case Benefits Summary, ABAWB Status Questions, ABAWDs 36 Month Tracking, Unearned Income, School Enrollment, Disability/Incapacity, and Medical Review Team Information computer screen prints
- D-4 Case Comments computer screen prints, dated February 2017 through March 2017
- D-5 Client Notices, dated October 2015 through February 2017
- D-6 Disability/Incapacity Medical Assessment (DFA-DIMA-1), dated February 15, 2017

**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 Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) The Appellant meets the West Virginia Income Maintenance Manual's definition of an Able-Bodied Adult Without Dependents (ABAWD).
- 3) On February 7, 2017, the Appellant was notified that he was no longer eligible to receive SNAP benefits effective March 1, 2017, because he did not meet the work requirement or an exemption. (D-1)
- 4) On February 15, 2017, the Appellant's physician completed a Disability/Incapacity Medical Assessment form (DFA-DIMA-1) stating the Appellant is unable to work, but the Appellant may participate in an educational activity for five (5) hours per week with accommodations. (D-6)
- 5) The Department determined the information on the DFA-DIMA-1 did not qualify the Appellant for an exemption, and the Appellant's SNAP benefits would close March 1, 2017.

**APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) §9.1 defines an ABAWD as any individual who is age 18 or older, but not yet age 50. 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.

Work requirements found in WV IMM §13.2 also applies to ABAWDs, but SNAP recipients are exempt from these work requirements if they are physically or mentally unfit for employment.

WV IMM §12.15 instructs 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**

On February 7, 2017, the Appellant was notified that he no longer was eligible to receive SNAP benefits effective March 1, 2017, because he is an Able-Bodied Adult Without Dependents (ABAWD), and did not meet the work requirement or an exemption. The Appellant requested a fair hearing, because he disagreed with the Department's decision that he did not meet an exemption.

Policy explains that individuals who meet the definition of ABAWD can receive SNAP benefits when they otherwise are 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.

The Appellant testified that he is physically unable to work. The Appellant's physician completed a DFA-DIMA-1 form which indicated the Appellant was unable to work. The physician stated that accommodations could not be made for the Appellant to participate in community service or a similar activity. The physician also noted that the Appellant's condition was chronic and no resolution was expected. The Appellant's witness, [REDACTED], is a caretaker employed with [REDACTED]. She testified that she is the Appellant's caretaker. She stated the Appellant had limited movement due to numbness of his legs. She added that she assists the Appellant with meal preparations and dressing.

The Department's representative, Robert Meade, testified that although the Appellant is unable to work, the Appellant did not meet an exemption. He stated that since the Appellant's physician stated on the DFA-DIMA-1 that the Appellant could participate in an educational activity, he is required to do so. He added that the Appellant is required to participate in an education activity for a maximum amount of five (5) hours per week, because that was the amount of hours the physician indicated the Appellant was able to complete.

Evidence and testimony provided at the hearing was clear that the Appellant is unable to work. Because the Appellant is physically unfit to work, he meets an exemption as stated in policy. The Department cannot require the Appellant to meet additional exemptions when he has already met one.

### **CONCLUSIONS OF LAW**

Because the Appellant is physically unable to work, he meets an exemption from the ABAWD work requirements described by policy.

**DECISION**

It is the decision of the State Hearing Officer to **reverse** the decision of the Department to terminate the Appellant's SNAP benefits.

**ENTERED this 4<sup>th</sup> day of April 2017**

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**Natasha Jemerison  
State Hearing Officer**