



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

June 29, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1931

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,

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

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

cc: Jennifer Fischer, Economic Service Supervisor

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

██████████,

Appellant,

v.

ACTION NO.: 17-BOR-1931

**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 22, 2017, on an appeal filed June 1, 2017.

The matter before the Hearing Officer arises from the June 1, 2017 decision by the Respondent to deny an application for Supplemental Nutrition Assistance Program (SNAP) benefits, because the Appellant's older daughter was an ineligible vocational training student who did not meet an exception to the SNAP student policy.

At the hearing, the Respondent appeared by Representative Jennifer Fischer, 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 Letter from Department to Appellant, dated June 2, 2017
- D-2 WV Income Maintenance Manual (WV IMM), Chapter 9, §9.1.A.2
- D-3 WV IMM, Chapter 9, §9.1.A.2.f(1)
- D-4 WV IMM, Chapter 10, Appendix A

Appellant's Exhibits:

- A-1 Two payment receipts from ██████████, ██████████ WV, to Appellant's daughter, both dated August 30, 2016
- A-2 Two payment receipts from ██████████ to Appellant's daughter, dated September 8 and December 8, 2016

- A-3 Two payment receipts from [REDACTED] to Appellant's daughter, both dated May 11, 2017
- A-4 One payment receipt from [REDACTED] to Appellant's daughter, dated June 12, 2017

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence during 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 May 23, 2017, the Appellant's 18-year-old daughter applied for SNAP benefits for herself. Because she was under 22 years of age, her mother and older sister, who lived in her home, had to be included in the SNAP assistance group (AG). The older sister was 21 years old.
- 2) The Department determined that the Appellant's older daughter was not eligible to be included in the SNAP AG because she was enrolled in a vocational training program.
- 3) The Appellant's gross income was \$1,868 per month. The income limit for a two-person SNAP AG is \$1,736 per month.
- 4) On June 2, 2017, the Department sent to the Appellant a letter (Exhibit D-1) informing her that the SNAP application completed by her younger daughter was denied because her gross income was excessive for a two-person AG.
- 5) The Appellant submitted a fair hearing request based on the Department's failure to include her older daughter in her SNAP AG.

APPLICABLE POLICY

WV Income Maintenance Manual (WV IMM) Chapter 9, §9.1.A.1 reads as follows in part:

The following individuals who live together must be in the same [SNAP assistance group or AG], even if they do not purchase and prepare meals together:

- Spouses . . .
- Children Under Age 18, Not Living With a Parent . . .
- Children Under Age 22, Living With a Parent
Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as that parent.

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 [or she] is under age 18.
- He [or she] is age 50 or over.
- He [or she] is physically or mentally disabled.
- He [or she] is attending high school.
- He [or she] is attending school less than half-time.
- He [or she] is enrolled full-time in a school or training program which does not meet the definition of an institution of higher education. Vocational schools which are a substitute for high school are not considered institutions of higher education. An institution of higher education is a business, technical, trade or vocational school that normally requires a high school diploma or its equivalent for enrollment in the curriculum or a college or university that offers degree programs whether or not a high school diploma is required for a particular curriculum. For this definition, a college includes a junior, community, two-year or four-year college.
- He [or she] is participating in an on-the-job training program.

DISCUSSION

The Department's representative testified that the Appellant's SNAP application, made by her younger daughter on May 23, 2017, was denied because only two of the three household members were included in the SNAP assistance group (AG). The Appellant's older daughter was a student in a vocational training program, cosmetology school. The Department's representative testified that a high school diploma was required for an individual to enroll in this program. She added that since only two individuals in the Appellant's household were included in the SNAP AG, the Appellant's income of \$1,868 was above the gross income limit of \$1,736 for a two-person SNAP AG.

The Appellant argued that it was incorrect to consider her older daughter's vocational training as "higher education." She submitted into evidence payment receipts for the daughter's tuition for the vocational program in which she was enrolled (Exhibits A-1, A-2, A-3 and A-4). The receipts indicate the Appellant paid for these classes using her own funds. The daughter did not receive

financial aid or federal grants. She stated she believed the term “higher education” referred to two- or four-year colleges or technical schools that required federal student aid or federal grants.

The Appellant testified that her daughter only needed 300 hours of training in order to obtain her West Virginia Cosmetology license. She testified her daughter had cosmetology licenses for the states of [REDACTED] and [REDACTED] but in order to be licensed in West Virginia, she needed additional training hours. She stated that on or about June 9, 2017, her older daughter completed her training and no longer attends this vocational program.

The Department’s representative testified that since the Appellant’s daughter has finished her vocational training, the Appellant may reapply for SNAP and her older daughter would not be excluded as an ineligible student.

Although the Department did not provide evidence to support its position that a high school diploma was required for someone to enroll in the vocational training the Appellant’s older daughter attended, the Appellant agreed that this was a requirement. No exemption exists for a student who attends a training program that does not involve federal aid or federal grants. Since the Appellant’s older daughter attended a vocational training program which meets the definition of “higher education” as found in the WV IMM 9.1.A.2.f (1), the Department acted correctly to exclude the Appellant’s daughter from her SNAP AG because she was an ineligible student and to deny the Appellant’s application for SNAP.

CONCLUSION OF LAW

The Appellant’s older daughter was excluded from the Appellant’s SNAP AG because she was a full-time vocational training student and did not meet an exemption to the student policy, pursuant to WV IMM §9.1.A.2.f (1). The Department acted correctly to exclude the daughter from the Appellant’s AG and deny the May 23, 2017, SNAP application.

DECISION

It is the decision of the state Hearing Officer to **uphold** the Department’s decision to deny the Appellant’s application for SNAP, made on May 23, 2017 by the Appellant’s younger daughter.

ENTERED this 29th Day of June, 2017.

Stephen M. Baisden
State Hearing Officer