



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Bill J. Crouch  
Cabinet Secretary

Jolynn Marra  
Interim Inspector General

April 18, 2019



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 19-BOR-1499

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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

cc: James Hilling, WVDHHR

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

██████████,

**Appellant,**

**v.**

**Action Number: 19-BOR-1499**

**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 April 16, 2019, on an appeal filed March 25, 2019.

The matter before the Hearing Officer arises from the decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits effective April 2019.

At the hearing, the Respondent appeared by James Hilling, Economic Service Worker, WVDHHR. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, Appellant's mother. All witnesses were sworn in and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 West Virginia Income Maintenance Manual Chapter 3.2.1.D.1
- D-2 West Virginia Income Maintenance Manual Chapter 3.2.1.D.3
- D-3 West Virginia Income Maintenance Manual Chapter 3.2.1.D.4
- D-4 SNAP information sheet for Able-Bodied Adults Without Dependents
- D-5 Employment income information for Appellant with pay stubs for June 2018
- D-6 Notice of Decision dated March 19, 2019

**Appellant's Exhibits:**

- A-1 Pay stubs for March 22, 2019, April 5, 2019 and April 12, 2019

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 and was required to meet the Respondent's Able-Bodied Adults Without Dependents (ABAWD) work requirements.
- 2) As an ABAWD, the Appellant was required to work 20 hours per week or 80 hours per month in order to receive SNAP benefits.
- 3) In March 2019, the Respondent reviewed pay stubs on file for the Appellant from June 2018 and determined that the Appellant was working an average of 77 hours per month.
- 4) The Respondent sent the Appellant a Notice of Decision on March 19, 2019 informing her that her SNAP benefits would be terminated effective March 31, 2019 because she did not meet ABAWD work requirements.

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 3.2.1.D.1 (D-1) states that ABAWD is a population of individuals who are age 18 or older, but not yet age 50.

West Virginia Income Maintenance Manual Chapter 3.2.1.D.2 (D-2) states that any individual who meets the definition of an ABAWD and who is normally required to be included in the Assistance Group (AG) can only receive benefits when he is otherwise eligible and:

- Resides in a Non-Issuance Limited County (NILC);
- Meets the work requirements outlined below or meets an exemption listed below;
- Is in his first three-month period while not meeting the ABAWD requirement or being exempt within the 36-month period;
- Regains eligibility after meeting the ABAWD work requirement and is in his additional three-month period, which must be consecutive months.

West Virginia Income Maintenance Manual Chapter 3.2.1.D.3 (D-2) states that ABAWD work requirements are met when: an individual is working at least 20 hours per week or 80 hours per month; is participating in an approved work program or a refugee resettlement program at least 20 hours per week or 80 hours per month; or is participating in a SNAP E&T program for the required number of hours.

West Virginia Income Maintenance Manual Chapter 3.2.1.D.4 (D-3) states that an individual is exempt from ABAWD requirements if he:

- Receives SNAP benefits in a SNAP AG that contains an individual under the age of 18, even if the household member who is under 18 is not eligible for SNAP himself;
- Is responsible for the care of an incapacitated person. The incapacity of the person must be verified through a written statement from a medical professional. Caring for an incapacitated

- person must prevent the client from being able to complete a work activity;
- Is receiving Unemployment Compensation Insurance (UCI);
  - Is certified as physically or mentally unfit for employment;
  - Is receiving Veterans Administration disability income;
  - Is pregnant;
  - Is a regular participant in a drug addiction or alcoholic treatment and rehabilitation program when such participation would prevent the individual from meeting the work requirement or participating in an employment/training program for the required number of hours;
  - Is a student enrolled at least half-time in any recognized school, training program, or institution of higher education;
  - Is hired for work at least 30 hours per week;
  - Is hired for work paying the equivalent of at least 30 hours times the federal minimum wage per week; or
  - Is a recipient of a 15 percent exemption through the Division of Family Assistance.

### **DISCUSSION**

Individuals defined as ABAWDS can receive SNAP benefits when they are otherwise eligible, meet work requirements, and/or meet an exemption. ABAWD work requirements are met when: an individual is working at least 20 hours per week or 80 hours per month; is participating in an approved work program or a refugee resettlement program at least 20 hours per week or 80 hours per month; or is participating in a SNAP E&T program for the required number of hours.

The Appellant failed to meet ABAWD work requirements based on calculations the Respondent made using her June 2018 pay stubs. During the hearing, the Appellant provided pay stubs for March 22, 2019 (19.06) work hours; April 5, 2019 (25.57 work hours); and April 12, 2019 (15.21 work hours). These pay stubs average 19.94 hours per week. The Appellant did not provide her March 29, 2019 pay stub, but the number of hours on that pay stub would total 13.71 when computed using the year-to-date total gross income on the April 5, 2019 pay stub (\$2,000.07), minus the March 22, 2019 gross year-to-date income (\$1,597.81) and the April 5, 2019 gross pay (\$261.85). The March 29, 2019 gross pay would have been \$140.41. This amount, divided by the hourly rate (\$10.24), equates to 13.71 hours for the March 29, 2019 pay. By including the March 29, 2019 work hours, the Appellant's average number of hours per week equates to 18.38.

The Appellant testified that she also performs weddings as a minister, is a published author, and does freelance drawing and writing. Based on her testimony, however, she does not receive income from these activities on a regular basis. As no income can be anticipated for these activities, they cannot be considered in the Appellant's weekly or monthly work hour calculation.

Based on information provided during the hearing, the Appellant's work hours do not meet ABAWD work requirements.

### **CONCLUSION OF LAW**

The Respondent acted correctly in terminating the Appellant's SNAP benefits based on failure to meet ABAWD work requirements.

### **DECISION**

It is the decision of the State Hearing Officer to UPHOLD the Respondent's action to terminate SNAP benefits effective April 2019.

**ENTERED this 18th Day of April 2019.**

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**Pamela L. Hinzman  
State Hearing Officer**