



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

Bill J. Crouch
Cabinet Secretary

**Board of Review
416 Adams Street Suite 307
Fairmont, WV 26554
304-368-4420 ext. 79326**

Jolynn Marra
Interim Inspector
General

July 3, 2019



RE: [REDACTED] v. WVDHHR
ACTION NO.: 19-BOR-1554

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 Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson
State Hearing Officer
State Board of Review

Enclosure: Appellant's Recourse
Form IG-BR-29

cc: David Griffin, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 19-BOR-1554

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on May 8, 2019 and reconvened on June 19, 2019, on an appeal filed April 10, 2019.

The matter before the Hearing Officer arises from the March 19, 2019 determination by the Respondent to terminate the appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by David Griffin, ██████ County DHHR. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 DHHR Notice, dated March 19, 2019
- D-2 eRAPIDS Case Benefit Summary
- D-3 West Virginia Income Maintenance Manual §§ 3.2.1.A.6, and 3.2.1.D - 3.2.1.B.3

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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant received \$192 SNAP monthly benefit allotment from June 2018 through March 2019 (Exhibit D-2).
- 2) On March 19, 2019, the Respondent issued a notice advising the Appellant that his SNAP benefits would be terminated, effective April 1, 2019, due to Able Bodied Adult receipt of SNAP for the first three-month period without meeting the work requirement or being exempt Exhibit D-1).
- 3) The Appellant is an Able-Bodied Adult Without Dependents (ABAWD).
- 4) The Appellant did not work at least 20 hours per week, work 80 hours per month, or participate in a work program during receipt of SNAP benefits for a three-month period.
- 5) The Appellant did not meet an exemption for the ABAWD work requirement.
- 6) During the hearing, the Appellant testified that he had medical issues that prevented him from complying with the work requirement.
- 7) The Respondent's case record does not reflect any physician's statements establishing a medical exemption for the Appellant in the 2018 or 2019 SNAP benefit years.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 3.2.1.D provides in part:

Able-Bodied Adults Without Dependents (ABAWD) is a population of individuals who are age 18 or older, but not yet age 50.

Countable Months are months in which the client receives a full monthly benefit while not exempt or meeting the ABAWD work requirement.

Fulfilling the ABAWD Work Requirement means working and/or participating in an allowable ABAWD work activity for 20 hours per week or 80 hours per month.

Three-Month Limit is the first full three months of SNAP benefits received without meeting the ABAWD work requirements or being exempt.

WVIMM § 3.2.1.D.2 provides in part:

For SNAP Assistance Groups (AG), any individual who meets the definition of an ABAWD and who is normally required to be included in the AG can only receive benefits when he is otherwise eligible AND:

- Meets the work requirements or an exemption

WVIMM § 3.2.1.D.3 provides in part:

To be eligible, an ABAWD must meet ABAWD work requirements. Unless exempt, he is ineligible once he has received SNAP benefits for three months without being exempt or meeting the ABAWD work requirement. The ABAWD work requirement is met by either working or participating in a work program at least 20 hours per week or 80 hours a month.

WVIMM § 3.2.1.D.4 provides in part:

An individual is exempt from the ABAWD work requirement if he is certified as physically or mentally unfit for employment according to the provisions in Section 13.15

WVIMM § 13.15.1 provides in part:

Disabled means an individual is unfit to engage in full-time employment due to a physical and/or mental disability.

WVIMM § 13.15.2 provides in part:

To establish disability, the disabled individual must be receiving benefits from one of several allowable disability assistance programs.

WVIMM § 13.15.3 provides in part:

For ABAWD individuals:

Individuals who meet the definition of disability due to receipt of assistance from an allowable disability assistance program are not required to provide additional verification of disability. To establish unfitness for employment in individuals who are not receiving assistance from an allowable disability assistance program and whose unfitness for employment is not obvious to the worker, the client must provide written verification from a licensed medical professional that the client is unfit for employment.

DISCUSSION

The Appellant's SNAP benefits were terminated by the Respondent on the basis that the Appellant received SNAP benefits for three months without complying with the ABAWD work requirement or meeting an exemption. The Appellant argued that he did not intentionally fail to comply but was unable to meet the work requirement due to the lack of transportation and medical issues. The Respondent argued that exemptions could not be given for lack of transportation. The Respondent testified that the Appellant was an ABAWD and the Appellant did not contest that he was an individual between the ages of 18 and 49 with no dependents.

The Respondent had to prove by a preponderance of evidence that the Appellant received three-months of SNAP benefits without complying with the ABAWD work requirement or meeting an exemption. The evidence clearly demonstrates that the Appellant received three months of SNAP benefits and the Appellant did not contest this fact. The Appellant did not contest the fact that he failed to comply with the work requirement, citing the lack of transportation. Without transportation, he reasoned, he could not attend any work program or be employed. Policy provides that an ABAWD may not receive SNAP benefits beyond the three-month limit unless the individual meets an exemption or is either working or participating in a work program at least 20 hours per week or 80 hours per month.

The ABAWD work requirement is met by either working or participating in a work program at least 20 hours per week or 80 hours a month. During the hearing, the Appellant testified that he has medical issues and past injuries that prevent him from keeping employment even if he had transportation to work. The Appellant testified that he has advised the Respondent in the past of his medical issues and had previously provided physician's statements. The Respondent reviewed the Appellant's case record and testified that the last physician's statement of record was dated November 2017 and advised that the Appellant was physically able to return to work. The Appellant contended that he believed he had submitted a statement after November 2017 but did not provide testimony regarding what specific type of physical exemption should have been provided or when a physician's statement was submitted. The Respondent advised that if the Appellant were to submit a physician statement, then a medical exemption could be considered. Policy provides that to establish a disability exemption for an individual whose unfitness for employment is not obvious, a physician's statement is required. As no physician's statement was provided to establish a medical exemption prior to the decision to terminate the Appellant's SNAP benefits, no exemption could be given.

As the Appellant is an ABAWD, received three months of SNAP benefits, and failed to comply with the ABAWD work requirement or meet an exemption, the Respondent correctly terminated the Appellant's SNAP benefits.

CONCLUSIONS OF LAW

1. Policy provides that an ABAWD individual may not receive SNAP benefits beyond the three-month limit unless the individual meets an exemption or is either working or participating in a work program at least 20 hours per week or 80 hours per month.
2. The Appellant failed to meet an exemption or comply with the ABAWD work requirements.
3. The Respondent correctly terminated the Appellant's SNAP benefits.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's decision to terminate the Appellants Supplemental Nutrition Assistance Program benefits

ENTERED this 3rd day of July 2019.

Tara B. Thompson
State Hearing Officer