



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
Raleigh County District
407 Neville Street
Beckley, WV 25801**

**Jolynn Marra
Interim Inspector General**

June 4, 2019

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.:19-BOR-1719

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Leslie Bonds, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 19-BOR-1719

**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 June 4, 2019, on an appeal filed May 13, 2019.

The matter before the Hearing Officer arises from the March 5, 2019, decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Leslie Bonds, Economic Service Supervisor. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Request Notification
- D-2 Hearing Request received May 13, 2019
- D-3 Notice of SNAP Approval dated November 16, 2018
- D-4 Notice of SNAP Approval dated November 16, 2018
- D-5 Notice of SNAP Approval dated December 19, 2018
- D-6 Notice of SNAP Termination dated March 5, 2019
- D-7 Disability/Incapacity Medical Assessment received May 13, 2019
- D-8 Case Comments for May 2019
- D-9 SNAP Application mailed May 23, 2019
- D-10 West Virginia Income Maintenance Manual §3.2.1.D
- D-11 West Virginia Income Maintenance Manual §1.2.9

D-12 Hearing Summary

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) On November 16, 2018, the Respondent issued a notice of SNAP approval to the Appellant, which advised the Appellant that his county of residence had time limited SNAP eligibility for individuals considered to be an Able-Bodied Adult Without a Dependent (ABAWD).
- 3) The November 2018 notice informed the Appellant that SNAP recipients who met the definition of an ABAWD would be ineligible from participation in SNAP after three (3) months, unless employed or meeting one of the exemptions listed (Exhibit D-3).
- 4) The Appellant was specifically listed as meeting the definition of an ABAWD (Exhibit D-3).
- 5) On December 19, 2018, the Respondent notified the Appellant that his ABAWD 36-month tracking period would be January 2019 through December 2021 and advised of the ABAWD requirement and exemptions to participate in SNAP (Exhibit D-5).
- 6) The Respondent notified the Appellant on March 5, 2019, that his SNAP benefits would be terminated effective March 30, 2019, as he had received the first 3 months of SNAP benefits in the 36-month period without meeting a work requirement or exemption (Exhibit D-6).
- 7) On May 13, 2019, the Appellant submitted a statement from his physician indicating that he was unable to work (Exhibit D-7).

APPLICABLE POLICY

West Virginia Income Maintenance Manual §§3.2.1.D, 3.2.1.D.2 and 3.2.1.D.4 state an ABAWD is a population of individuals who are age 18 or older, but not yet age 50. An individual who turns 18 becomes an ABAWD in the month following their birthday. An individual is no longer an ABAWD in the month of their 50th birthday.

- For SNAP AGs, 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:
- 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 work requirement or being exempt within the 36-month period; or
- Regains eligibility after meeting the ABAWD work requirement and is in his additional three-month period, which must be consecutive months.

SNAP benefits received while exempt do not count toward the three-month limit.

An individual is exempt 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, whether or not the person receiving the care resides with the client, and whether or not the incapacitated person is a member of the AG. The incapacity of the person must be verified through a written statement from a doctor, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, or a licensed or certified psychologist.
 - Caring for an incapacitated person must prevent the client from being able to complete a work activity. If questionable, written verification is required.
- Is receiving Unemployment Compensation Insurance (UCI). An individual who has applied for, but is not yet receiving unemployment compensation is also exempt if he is complying with the unemployment application process, including those applying out of state. This includes persons receiving benefits under the Trade Readjustment Allowance (TRA);
- Is certified as physically or mentally unfit for employment according to the provisions in Section 13.15;
- Is receiving VA disability income, of any percentage as part of being declared disabled by the VA;
- Is pregnant, regardless of the expected date of delivery. The pregnancy must be verified;
- Is a regular participant in a drug addiction or alcoholic treatment and rehabilitation program when the participation in this program would prevent the individual from meeting the work requirement or participating in an employment/training program the required number of hours. When exempting ABAWDs due to participating in a drug addiction or alcoholic treatment and rehabilitation program, the Worker must verify the number of hours the client must commit to the program to determine if the individual is exempt;
- Is a student enrolled at least half-time in any recognized school, training program, or institution of higher education. Students enrolled at least half-time in an institution of higher education must still meet the student eligibility requirements found above to be eligible for SNAP;

- 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 the recipient of a 15% exemption through the Division of Family Assistance (DFA).

West Virginia Income Maintenance Manual §1.4.4.E **states a new application is not required for an ineligible ABAWD unless he is the sole AG member** when the following occur:

- The ABAWD becomes exempt;
- The county in which he resides becomes exempt;
- The county of which he resides becomes a NILC;
- The State of West Virginia begins a new 36-month tracking period.

DISCUSSION

Pursuant to policy, individuals who meet the definition of an ABAWD cannot receive SNAP benefits for more than 3 months unless meeting a work requirement or an exemption.

The Appellant met the definition of an ABAWD. The Appellant received SNAP benefits for January, February and March 2019. The Respondent terminated the Appellant's SNAP benefits effective March 30, 2019, because he did not meet a work requirement or an exemption listed in policy.

Subsequent to the SNAP termination, the Appellant submitted a statement from his physician indicating that he was unable to work. However, because the Appellant is the sole member of his SNAP assistance group, he is required to make a new application upon meeting an ABAWD exemption.

Whereas the Appellant met the definition of an ABAWD and did not meet an exemption to continue receiving SNAP benefits beyond the initial 3 months during the 36-month tracking period prior to case closure, the Respondent correctly terminated his SNAP benefits. The Appellant is required to reapply for ongoing SNAP eligibility.

CONCLUSIONS OF LAW

- 1) Policy limits the receipt of SNAP benefits for individuals who meet the definition of an ABAWD to 3 months out of a 36-month period, unless meeting a work requirement or an exemption.
- 2) The Appellant met the definition of an ABAWD at the time of case closure.

- 3) The Appellant received SNAP benefits for 3 months without participating in a work requirement or meeting an exemption.
- 4) The Respondent correctly terminated the Appellant's SNAP benefits.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program benefits.

ENTERED this 4th day of June 2019.

**Kristi Logan
State Hearing Officer**