



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

**Bill J. Crouch
Cabinet Secretary**

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

**Jolynn Marra
Interim Inspector General**

November 3, 2021

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-2227

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
Certified State Hearing Officer
Member, State Board of Review

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

cc: Darlene Watkins, [REDACTED] DHHR
[REDACTED]

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

██████████,

Appellant,

v.

Action Number: 21-BOR-2227

**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 November 2, 2021, on an appeal filed October 13, 2021.

The matter before the Hearing Officer arises from the August 17, 2021, decision by the Respondent to deny the Appellant's application for Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Darlene Watkins, Economic Service Worker. The Appellant appeared by his mother, ██████████. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

D-1 ██████████ Student Schedule/Bill for Fall Semester 2021

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 applied for SNAP benefits on August 3, 2021.
- 2) The Appellant is a full-time college student participating in a federal work study.
- 3) The Appellant resides on campus in a dormitory and receives a meal plan (Exhibit D-1).
- 4) The Respondent denied the Appellant's application for SNAP benefits due to receiving a meal plan.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §2.2.1.B states that to be eligible for SNAP benefits, an individual must not be a resident of a public or private institution. An individual is considered a resident of an institution when:

- The institution provides more than 50% of his three daily meals as part of the institution's normal services.
- The institution has not been authorized to accept SNAP benefits.

A school dormitory is considered an institution. Therefore, any student who resides in a school dormitory and receives the majority of his meals from the institution's meal plan is ineligible to participate in SNAP. This includes, but is not limited to, colleges and military and boarding schools, even when the student returns home for weekends.

The following groups are exempt from this policy:

- Narcotic addicts or alcoholics who reside at a facility or treatment center under the supervision of a drug or alcoholic treatment and rehabilitation program. See Chapter 16 for specific instructions for these groups.
- Individuals who reside in a Group Living Facility (GLF). See Chapter 3 and Chapter 16 for the definition of a GLF and for instructions regarding which residents of a GLF qualify.
- Residents of shelters for battered persons and their children.
- Institution residents who do not receive their meals from the institution, but who purchase and prepare their own food, or participate in a delivered meals program or a communal dining program, are eligible if they meet all other eligibility requirements. **This includes those students who reside in school dormitories with optional meal plans and do not receive the majority of their meals from the institution** (emphasis added).
- Residents of federally subsidized housing for the elderly, built under either Section 202 of the Housing Act of 1959 or Section 236 of the National Housing Act, qualify if otherwise eligible.
- Residents of public or private non-profit shelters for homeless persons qualify, if otherwise eligible.

West Virginia Income Maintenance Manual §3.2.1.E states a student is an individual who is enrolled at least half time in a recognized school, training program or institute of higher education. A student enrolled at an institute of higher education is ineligible to participate in SNAP unless the individual qualifies for one of the exemptions described below.

Students who live in a dormitory operated by the school and receive the majority of their meals from the school are ineligible to participate in SNAP regardless of whether they meet an exception to the policy.

A student meets an exemption if he is:

- Under age 18;
- Age 50 or over;
- He is physically or mentally unfit for employment. An individual who meets the definition of disability found in Section 13.15 is considered unfit for employment. Other individuals may be considered unfit for employment if it is verified through a written statement from a licensed medical professional or if it is obvious to the worker.
- Participating in an on-the-job training program. This does not include the practical experience requirements that may be part of some courses of study, i.e., student teaching, internships, etc.
- Employed at least 20 hours per week or 80 hours a month and is paid for the employment.
- **Participating in a state or federally financed College Work Study (CWS) program during the regular school year** (emphasis added); Participation means that the student has been approved for CWS during the school term and anticipates actually working during that time.
 - To qualify for this exemption, the student must be approved for CWS at the time of application.
 - The exemption begins with the month in which the school term begins or the month CWS is approved, whichever is later. Once begun, the exemption continues until the end of the month in which the school term ends, or it becomes known that the student refused an assignment. The exemption does not continue between school terms when there are breaks of a full month or longer, unless the student is participating in CWS during the break.
- Included in a WV WORKS benefit;
- Assigned to or placed in an institution of higher education through one of the following: Workforce Innovation and Opportunity Act (WIOA) or Section 236 of the Trade Act of 1974
- Responsible for the care of a child under the age of six;
- Responsible for the care of an AG member who has reached the age of 6 but is under age 12 and adequate child care is not available to enable the student to attend class and satisfy the 20 hour work requirement or participate in a state or federally financed CWS program during the regular school year; or
- Is a single parent (natural, adoptive, or stepparent), regardless of marital status, and is responsible for an AG member under age 12, regardless of the availability of adequate

childcare, and is enrolled full-time, as defined by the institution. o This applies in situations where only one natural, adoptive, or stepparent, regardless of marital status, is in the same AG with the child.

- o If no natural, adoptive, or stepparent is in the AG with the child, another full-time student in the same AG as the child may qualify for this exemption, if he has parental control over the child.

The Consolidated Appropriations Act of 2021 (HR Bill 133) Title VII, Subtitle A, Section 702 enacted January 16, 2021 provided two (2) new exemptions for SNAP eligibility for students. These exemptions remain in effect for thirty (30) days after the COVID-19 public health emergency declaration has been lifted. Students who meet one of the following criteria are eligible for SNAP, provided all other SNAP eligibility criteria is met:

- The student is eligible to participate in a state or federally financed college work study during the regular school year as determined by the institution of higher education.
- In the current academic year, has an Expected Family Contribution (EFC) of \$0

DISCUSSION

Pursuant to policy, an individual who meets the definition of a student must meet certain exemptions to receive SNAP benefits. The Appellant is a full-time student who meets the student policy exemption of participating in a work study program.

However, policy stipulates that an individual must not be a resident of a public or private institution to be eligible for SNAP benefits. An individual is considered a resident of an institution when the institution provides more than 50% of the three daily meals as part of the institution's normal services. School dormitories are considered institutions, therefore any student who resides in a school dormitory and receives the majority of his or her meals from the institution's meal plan is ineligible to participate in SNAP.

The Appellant is a full-time college student who resides in a dormitory and participates in the school's meal plan. The Respondent denied the Appellant's application due to his participation in a meal plan.

The Appellant's representative, [REDACTED], contended that the Appellant is eligible to receive SNAP benefits based upon the waivers provided by the Consolidated Appropriations Act of 2021 that allowed students who were ineligible based upon the student policy to participate in SNAP. [REDACTED] argued that her son is a student athlete, and although he has a meal plan through school, the dining hall is often closed before he is free from his athletic responsibilities.

The Consolidated Appropriations Act allowed students who were approved for college work study, but who were not actively participating in the work study, to receive SNAP benefits, waiving the requirement of active participation to be eligible. The Consolidated Appropriations Act also provides an additional exemption to student policy allowing any student who has an Expected Family Contribution of \$0 to be eligible for SNAP benefits.

The Appellant meets the student policy exemption of participating in a work study program. No testimony or documentation was provided regarding the percentage of meals the Appellant receives through his meal plan at college. Without documentation confirming that the Appellant receives the majority of his meals through his meal plan, a determination of his ineligibility for SNAP benefits based upon his status as residing in an institution cannot be made.

CONCLUSIONS OF LAW

- 1) The Appellant meets an exemption to the SNAP student policy by participating in a college work study program.
- 2) The Appellant resides in a college dormitory and participates in a meal plan provided through the school.
- 3) Residents of school dormitories who receive the majority of their meals, or more than 50% of the three daily meals, are ineligible for SNAP benefits.
- 4) There was no testimony or documentation provided to confirm that the Appellant receives the majority of his meals through his meal plan.
- 5) A determination of his ineligibility for SNAP benefits based upon his status as residing in an institution cannot be made.

DECISION

It is the decision of the State Hearing Officer to **reverse** the decision of the Respondent to deny the Appellant's application for Supplemental Nutrition Assistance Program benefits. The matter is hereby **remanded** for further evaluation of his eligibility based upon a determination of whether he receives the majority of his meals through his meal plan.

ENTERED this 3rd day of November 2021.

Kristi Logan
Certified State Hearing Officer