



**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of the Inspector General  
Board of Review**

**Jeffrey H. Coben, MD  
Interim Cabinet Secretary**

**Sheila Lee  
Interim Inspector General**

June 22, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-1846

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

cc: Brittany Lane-Brock, WVDHHR

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

████████████████████,

**Appellant,**

v.

**Action Number: 23-BOR-1846**

**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 14, 2023.

The matter before the Hearing Officer arises from the decision by the Respondent to deny Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Brittany Lane-Brock, Economic Service Worker, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

D-1 Notice of Decision dated May 22, 2023

**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 is homeless and is a current resident of a dormitory for homeless veterans at the Clarksburg Mission.
- 2) The Appellant is not enrolled in a treatment program at the facility.
- 3) The Appellant applied for Supplemental Nutrition Assistance Program (SNAP) benefits on May 9, 2023.
- 4) The Respondent determined that the Appellant was ineligible for SNAP benefits and sent the Appellant a Notice of Decision on May 22, 2023 (Exhibit D-1).
- 5) The notice states that the Appellant is ineligible for SNAP due to her current living situation (Exhibit D-1).

### **APPLICABLE POLICY**

Code of Federal Regulations 7 CFR § 273.1(a)(7)E states that individuals who are residents of public or private nonprofit shelters for homeless persons can participate in SNAP and must be treated as separate households from the others with whom they reside.

#### **West Virginia Income Maintenance Manual Chapter 16.2.4.A- Definition of a Homeless Individual:**

For the purposes of this policy, a homeless individual is an adult or child who lacks a fixed or regular nighttime residence, or a person whose primary nighttime residence is one of the following:

- A supervised shelter designed to provide temporary accommodations, such as a congregate shelter;
  - A halfway house or similar institution that provides temporary residence for persons who might otherwise be institutionalized;
  - A temporary accommodation in the residence of another individual. Homeless is defined in this manner for up to a 90-day period. When the homeless individual(s) moves from one residence to another, a new 90- day period begins. A 90-day period in one residence continues when there is a break in participation; or
  - A place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings, such as a vehicle, a hallway, a bus station, a lobby or similar places.

**West Virginia Income Maintenance Manual Chapter 16.2.4.C- SNAP Participation for Persons Who Are Homeless:**

Persons who are homeless qualify for participation in SNAP, if otherwise eligible, because there is no durational or fixed residency requirement.

West Virginia Income Maintenance Manual Chapter 16.2.4 states that residents of shelters for the homeless are not considered residents of an institution and, if otherwise eligible, qualify for participation in SNAP.

West Virginia Income Maintenance Manual Chapter 2.2.1.B addresses institutionalized individuals and states that residents of public or private non-profit shelters for homeless persons qualify for SNAP benefits, if otherwise eligible.

**DISCUSSION**

Policy states that residents of shelters for the homeless are not considered residents of an institution and, if otherwise eligible, qualify for participation in SNAP.

The Respondent's representative testified that the Appellant was determined ineligible for SNAP benefits because she resides in the veterans' dormitory at the [REDACTED]. She contended that the shelter provides two meals per day for the residents and that the Appellant cannot receive SNAP while residing in an institution in which the majority of meals are provided. The representative indicated that there are different programs/units at the [REDACTED] and it is not a regular homeless shelter.

The Appellant, who is homeless and has no income, stated that she is temporarily staying at the [REDACTED] at the [REDACTED]. The Appellant testified that she was put in contact with the shelter by the [REDACTED] after she fled a domestic violence situation and that she is not a participant in a treatment program. The Appellant indicated that the shelter provides two meals per day Monday through Friday, but no meals are provided on weekends. She stated that the meals are not adequate for her nutritional needs.

As the Appellant is homeless and resides in a shelter for homeless veterans, she is not considered to be an institutional resident and qualifies for SNAP participation if otherwise eligible.

**CONCLUSIONS OF LAW**

- 1) Policy states that residents of shelters for the homeless are not considered residents of an institution and, if otherwise eligible, qualify for participation in SNAP.
- 2) The Appellant is homeless and resides in a dormitory for homeless veterans.
- 3) As homeless shelter residents are not considered residents of an institution, the Respondent's decision to deny SNAP benefits cannot be affirmed.

**DECISION**

It is the decision of the State Hearing Officer to REVERSE the Respondent's action to deny SNAP benefits.

**ENTERED this 22nd day of June 2023.**

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**Pamela L. Hinzman  
State Hearing Officer**