



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

Sherri A. Young, DO, MBA, FAAFP  
Interim Cabinet Secretary

Christopher G. Nelson  
Interim Inspector General

October 31, 2023



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-2885

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 ensure 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,

**Tara B. Thompson, MLS**  
State Hearing Officer  
Member, State Board of Review

Encl: Decision Recourse  
Form IG-BR-29

CC: James Falter, [REDACTED] DHHR  
Justin Thorne, [REDACTED] DHHR  
Stephanie Smith, [REDACTED] DHHR

416 Adams Street • Suite 307 • Fairmont, WV 26554  
304.368.4420 • <https://www.wvdhhr.org/oig/bor.html>  
[Tara.B.Thompson@wv.gov](mailto:Tara.B.Thompson@wv.gov)

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

[REDACTED]

**Appellant,**

**v.**

**Action Number: 23-BOR-2885**

**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 [REDACTED]. 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 October 10, 2023.

The matter before the Hearing Officer arises from the Respondent's September 5, 2023 decision to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) eligibility.

At the hearing, the Respondent was represented by James Falter, [REDACTED] DHHR. The Appellant was represented by his father, [REDACTED]. All witnesses were sworn in and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Scheduling Notice
- D-2 Written Hearing Request
- D-3 Notice, dated September 5, 2023
- D-4 SNAP/Medicaid Review Form, received August 31, 2022
- D-5 Medicaid Review Form, dated March 1, 2023
- D-6 SNAP/Medicaid Review Form, received August 18, 2023
- Medicaid Review Form, received June 30, 2023
- D-7 eRAPIDS Screen Print: WorkForce WV Registration
- D-8 DHHR Notice to SNAP Recipients Ages 18 through 49, dated May 15, 2023
- D-9 eRAPIDS Screen Print: ABAWDs 36 Month Tracking
- D-10 Case Activity Screen Print
- D-11 Case Comments, dated February 2022 through September 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 following Findings of Fact are set forth.

**FINDINGS OF FACT**

- 1) The Appellant is a member of a three-person SNAP Assistance Group (AG).
- 2) The Appellant received SNAP benefits through September 2023 (Exhibit D-9).
- 3) On September 5, 2023, the Respondent issued a notice advising the Appellant he was ineligible for SNAP benefits because “Able Bodied Adult has received SNAP for the first 3 month period without meeting the work requirement or being exempt.”
- 4) On August 31, 2022, a SNAP/Medicaid review form was submitted for the Appellant’s AG by [REDACTED] (Exhibit D-4).
- 5) On the August 31, 2022, SNAP/Medicaid review form, [REDACTED] indicated in writing that the Appellant had a mental/emotional disability and indicated April 25, 2022 as the disability date (Exhibit D-4).
- 6) On September 9, 2022, the Respondent’s worker processed the Appellant’s August 31, 2022 submitted review (Exhibit D-11).
- 7) The Respondent’s September 9, 2022 case comment reflected “referral via workforce” (Exhibit D-11).
- 8) The Appellant’s WorkForce WV Referral date was September 19, 2022 (Exhibit D-7).
- 9) The Appellant registered for WorkForce on October 11, 2022 (Exhibit D-7).
- 10) The Appellant’s record indicated the Appellant’s next WorkForce WV Registration was due on October 11, 2023 (Exhibit D-7).
- 11) On March 1, 2023, a Medicaid review form was submitted for the Appellant’s AG by [REDACTED] (Exhibit D-5).
- 12) On the March 1, 2023 Medicaid review form, [REDACTED] indicated in writing that the Appellant had a disability (Exhibit D-5).

13) On March 2, 2023, the Respondent's worker processed the Appellant's March 1, 2022 submitted review (Exhibit D-11).

14) The Respondent worker's March 2, 2023 case comment reflects "no changes on form reported" (Exhibit D-11).

15) On May 15, 2023, a notice was issued to the Appellant's AG advising that, effective July 1, 2023:

West Virginia adults under the age of 50 who receive Supplemental Nutrition Assistance Program (SNAP) benefits will no longer be eligible for SNAP after three months unless they are enrolled in a work, education, training or volunteer activity equal to 80 hours per month or meet one of the exemptions listed below (Exhibit D-8).

16) The May 15, 2023 notice advised that if a participant meets an exemption verified by the DHHR eligibility worker, the participant will continue receiving SNAP (Exhibit D-8). (Exhibit D-8).

17) The May 15, 2023 notice lists exemptions including, "You cannot work due to a physical or mental limitation" (Exhibit D-8).

18) On June 30, 2023, a Medicaid review form was submitted for the Appellant's AG by [REDACTED] (Exhibit D-6).

19) On the June 30, 2023 Medicaid review form, [REDACTED] indicated in writing that the Appellant had a disability (Exhibit D-6).

20) On August 16, 2023, the Respondent's worker processed the Appellant's June 30, 2023 review form (Exhibit D-11).

21) On August 16, 2023, the Respondent's case comment reflects "reports no changes" (Exhibit D-11).

22) On August 18, 2023, a SNAP/Medicaid review form was submitted for the Appellant's AG by [REDACTED] (Exhibit D-6).

23) On the August 18, 2023 SNAP/Medicaid review form, [REDACTED] circled that the Appellant had "physical, mental, emotional" disabilities (Exhibit D-6).

24) On September 1, 2023, the Respondent's worker processed the Appellant's August 18, 2023 review form (Exhibit D-11).

25) On September 1, 2023, the Respondent's case comment reflects "SNAP decreasing for OCT son has used all 3 ABAWD months" (Exhibit D-11).

## **APPLICABLE POLICY**

### **West Virginia Income Maintenance Manual (WVIMM) § 1.2.1.E.3 *Worker Responsibilities* provides in relevant sections:**

The Worker has the following responsibilities to ensure fair and equitable treatment of applicants and clients:

- Consider whether a person may have a special need, and how that may affect his ability to comply with rules, fill out forms, attend scheduled appointments, etc.

If ... an individual informs the agency, that a person has a disability or LEP and that affects his ability to comply, the Worker has the authority to make reasonable modifications or accommodations to ensure that the person receives equal access to all programs and services. Any evidence must be documented in the case record and in case comments.

**WVIMM § 1.2.2.B *Redetermination Process* provides in relevant sections:** Federal law mandates periodic reviews of eligibility for benefit recipients. The redetermination process involves the same activities described in the application process.

**WVIMM § 3.2.1.D *Able-Bodied Adults Without Dependents (ABAWD)* provides in relevant parts:** ABAWD is a population of individuals who are age 18 or older, but not age 53. An individual who turns 18 becomes an ABAWD in the month following her birthday. An individual is no longer an ABAWD in the month of their 53<sup>rd</sup> birthday.

### **WVIMM § 3.2.1.D *ABAWD Eligibility* provides in the relevant section:**

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:

- Meets the work requirements outlined below or meets an exemption listed below;
- Is in the first three-month period while not meeting the ABAWD work requirement or being exempt within the 35-month period; or
- Regains eligibility after meeting the ABAWD work requirement and is in his additional three-month period, which must be consecutive months.

### **WVIMM § 3.2.1.D.3 *ABAWD Work Requirement* provides in relevant sections:**

All SNAP work requirements in Chapter 14 also apply to ABAWDs .... As long as an ABAWD is exempt as found in the exemptions below or meets any of the requirements below, he may receive SNAP benefits, if otherwise eligible. Otherwise, he is ineligible once he has received SNAP benefits for three months without being exempt or meeting the ABAWD work requirement.

**WVIMM § 3.2.1.D.4 *Exemptions from ABAWD Time Limits and ABAWD Work Requirements* provided in relevant sections:**

SNAP benefits received while exempt do not count toward the three-month limit. An individual is exempt if he ... is certified as physically or mentally unfit for employment according to the provisions in section 13.15.

**WVIMM § 1.2.3.A *Worker Responsibilities — General* provides in relevant sections:** During the redetermination process, the worker is required to determine if an applicant requires special assistance and obtain all pertinent information through verification, when appropriate.

**WVIMM § 10.4.2.B.2 *Sources That Are Considered Reported* provides in relevant sections:** Communication from an AG member such as an office visit, telephone call, or written statement to report a change for any program of assistance in the eligibility system is considered a reported change that requires follow up and/or action.

**WVIMM § 10.4.2.B.4 *Unclear Information* provides in relevant sections:** When the Worker cannot readily determine the effect of the reported information on the household's benefit, the Worker must pursue clarification and required verification of unclear information related to the reported changes.

**WVIMM § 7.2.1 *When Verification is Required* provides in relevant sections:**

Verification of a client's statement is required when:

- Policy requires routine verification of specific information.
- The information provided is questionable. To be questionable, it must be:
  - Inconsistent with other information provided; or
  - Inconsistent with the information in the case file; or
  - Inconsistent with information received by the DHHR from other sources; or
  - Incomplete; or
  - Obviously inaccurate; or
  - Outdated

**WVIMM § 7.2.3 *Client Responsibilities* provides in relevant sections:** The primary responsibility for providing verification rests with the client. It is an eligibility requirement that the client cooperates in obtaining necessary verifications ... Failure of the client to provide necessary information nor to sign authorizations for the release of information results in denial of the application or closure of the active case provided the client has access to such information and is physically and mentally able to provide it.

**WVIMM § 7.2.4 *Worker Responsibilities* provides in relevant sections:**

The Worker has the following responsibilities in the verification process:

- At application, redetermination, and anytime a DFA-6 is used, the Worker must list all required verification known at the time. The Worker should only request additional verification if the information provided is

incomplete or additional information is necessary to determine eligibility

...

**WVIMM §§ 9.2 through 9.2.1.A SNAP provides in relevant sections:** The DFA-6, Notice of Information Needed, is the form used to request verification information. The DFA-6 is given or mailed to the recipient to notify them of information or verification they must supply to establish eligibility. If the client fails to adhere to the requirements detailed on the DFA-6, the application is denied or the deduction disallowed, as appropriate ... This form also notifies the client that his application will be denied, or a deduction disallowed, if he fails to provide the requested information by the date specified on the form. The Worker determines the date to enter to complete the sentence, "If this information is not made available to this office by \_\_\_\_" as follows.

For SNAP, the date entered in the DFA-6 must be 10 days from the date of issuance.

**WVIMM § 13.3.1.A Definition of Disability— Individuals Age 18 or Over provided in relevant sections:**

An individual who is age 18 or over is considered disabled if he is unable to engage in any substantial gainful activity due to any medically determined physical or mental impairment that has lasted, or is expected to last, for a continuous period of at least 12 months, or is expected to result in death.

**WVIMM § 13.15.3 Establishing a Client as Unfit for Employment provides in relevant sections:** For a client that does not meet the definition of disability and it is not obvious to the worker that the client is unfit for employment, the Worker will request that the client provide written verification from a licensed medical professional that the client is unfit for employment.

**Code of Federal Regulations 7 CFR § 273.2(f) Verification provides in relevant section:**

Verification is the use of documentation or a contact with a third party to confirm the accuracy of statements or information. The State agency must give households at least 10 days to provide the required verification.

**Code of Federal Regulations 7 CFR § 273.7(a) Work Requirements provides in relevant sections:**

(1) As a condition of eligibility for SNAP benefits, each household member who is not exempt under paragraph (b)(1) of this section must comply with the following SNAP work requirements:

(i) Register for work or be registered by the State agency at the time of application and every 12 months after initial registration. The member required to register need not complete the registration form.

(ii) Participate in a Food Stamp Employment and Training (E&T) program if assigned by the State agency, to the extent required by the State agency;

(iii) Participate in a workfare program if assigned by the State agency;

(iv) Provide the State agency or its designee with sufficient information regarding employment status or availability for work;

**Code of Federal Regulations 7 CFR § 273.7 (c)(1)(ii) *State Agency Responsibilities* provides:**

During the certification process, the State agency must provide a written notice and oral explanation to the household of all applicable work requirements for all members of the household and identify which household member is subject to which work requirement .... The written notice and oral explanation must be provided in accordance with (c)(1)(iii) of this section. This written notice and oral explanation must also be provided to the household when a previously exempt household member or new household member becomes subject to these work requirements, and at recertification.

**DISCUSSION**

To prove that the Respondent correctly terminated the Appellant's SNAP benefit eligibility, the Respondent had to demonstrate by a preponderance of evidence that the Appellant received SNAP for the first three-month period without meeting a work requirement or being exempt. The Appellant's representative did not dispute that the Appellant was an ABAWD or had received issuance during the first three months. The Appellant's representative argued that the Appellant should have been exempt from the work requirement due to his reported disability. According to the policy, an individual is exempt if he is certified as physically or mentally unfit for employment.

**Work Requirement**

The Appellant's representative contended that he previously informed the Respondent, in writing, of the Appellant's severe mental illness that should exempt him from the work requirement. The evidence demonstrated that [REDACTED] advised the Respondent, repeatedly and in writing, during his reviews that the Appellant had a disability. The evidence also demonstrated that despite being repeatedly advised, in writing, of the Appellant's disability, the Respondent subsequently failed to request information to verify the Appellant's statements and determine whether he met a work requirement exemption.

The evidence revealed that [REDACTED] advised the Respondent in writing in August 2022 of the Appellant's disability. The Respondent's case comments reflect that the reported information was not acted upon as the September 9, 2022, case comment indicated a WorkForce WV referral was made for the Appellant.

According to the evidence, because the Respondent required the Appellant to register, he registered for WorkForce in October 2022. During the hearing, the Respondent's worker argued that the Appellant's compliance with the WorkForce registration was an indication that the Appellant did not meet a disability exemption. The Respondent's assertion is not aligned with the policy. The



policy does not stipulate that WorkForce registration should be construed as proof that the individual is not disabled.

During the Appellant's March 2023 and June 2023 review, [REDACTED], again, reported the Appellant's disability. The case comments reveal that the Respondent's worker indicated "no changes" to the Appellant's case. [REDACTED] report of the Appellant's disability was, again, not acted upon.

During the Appellant's August 2023 review, [REDACTED], again, reported the Appellant's disability. The Respondent did not process the Appellant's August 18, 2023 submitted review until September 1, 2023, and recorded that the Appellant was ineligible because he "used all 3 ABAWD months." Again, the Respondent disregarded the Appellant's reported disability and proceeded to initiate termination of his SNAP eligibility.

The preponderance of evidence revealed that the Appellant's representative reported the Appellant had a disability. The evidence did not indicate that the Respondent requested verification to corroborate the Appellant's August 2022, March 2023, June 2023, and August 2023 reported disability. Because the Respondent failed to act on [REDACTED] report of disability to determine whether the Appellant met an exemption, the Respondent's decision to terminate the Appellant's SNAP benefit eligibility —because he failed to meet an exemption — cannot be affirmed.

### **Verification**

The Respondent's representative testified that if the Appellant's disability is not established by the Social Security Administration, verification is required from a healthcare professional that states the Appellant is unable to work. The Respondent's representative testified that the Appellant failed at each subsequent report of disability to provide documents to corroborate the disability.

During the hearing, the Respondent's representative emphasized the Appellant's responsibility to submit verification of disability at the time of the report. The policy stipulates that the Respondent must pursue clarification and required verification of unclear information related to reported changes. While the policy provides that the responsibility to provide verification rests on the client, the policy clearly instructs that the Respondent must notify the client that verification is required and provide the client with ten days to provide the requested verification. The evidence did not indicate the Respondent requested any verification be submitted based on the Appellant's August 2022, March 2023, June 2023, and August 2023 reported disability.

### **CONCLUSIONS OF LAW**

- 1) After the first three-month benefit period while not meeting the ABAWD work requirement, ABAWD SNAP recipients must meet the work requirement or meet an exemption.
- 2) When reported information requires routine verification, is unclear, or varies from the case record, the Respondent is required to seek verification of the client's statement and must give the client at least 10 days to provide the required verification.

- 3) The preponderance of the evidence revealed that the Respondent did act to verify the Appellant's reports of disability.
- 4) The Respondent incorrectly terminated the Appellant's SNAP eligibility because he failed to meet an exemption.
- 5) The Respondent must request relevant verification of the Appellant's statements, must provide him with an opportunity to submit the requested verification, and must consider his eligibility for a work requirement exemption.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to terminate the Appellant's SNAP eligibility because he failed to meet a work requirement exemption. It is hereby **ORDERED** that any lost benefits be restored and made retroactive to the date of termination. The matter is **REMANDED** for issuance of a request for information to verify the Appellant's statements and a new determination regarding the Appellant's SNAP eligibility. The Appellant retains the right to appeal any subsequent decision made by the Respondent regarding the Appellant's ongoing SNAP eligibility.

Entered this 31<sup>st</sup> day of October 2023.

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**Tara B. Thompson, MLS**  
State Hearing Officer