



**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**

November 3, 2023



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-3005

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: Leslie Riddle, [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**

████████████████████,

**Appellant,**

**v.**

**Action Number: 23-BOR-3005**

**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 October 25, 2023.

The matter before the Hearing Officer arises from the Respondent's August 28, 2023 decision to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent was represented by Leslie Riddle, Wood County DHHR. The Appellant appeared and represented himself. Both witnesses were sworn in and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 DHHR Notice, dated August 28, 2023
- D-2 DHHR Notice, dated May 15, 2023
- D-3 West Virginia Income Maintenance Manual (WVIMM) Chapter 3 Policy Excerpts
- D-4 WVIMM Chapter 3 Policy Excerpts, highlighted
- D-5 WVIMM Chapter 3 Policy Excerpts, highlighted
- D-6 WVIMM Chapter 3 Policy Excerpts

**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 was a recipient of SNAP benefits for a one-person Assistance Group (AG) (Exhibit D-1).
- 2) On August 28, 2023, the Respondent issued a notice advising the Appellant his SNAP benefits would be terminated after September 30, 2023, because “Able Bodied Adult has received SNAP for the first 3 month period without meeting the work requirement or being exempt” (Exhibit D-1).
- 3) On May 15, 2023, the Respondent issued a “Message to All West Virginia SNAP recipients ages 18 through 49” that advised, effective July 1, 2023, all West Virginia SNAP recipients under age 50 “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-2).
- 4) The May 15, 2023 notice advised, “If you do not meet the ABAWD work requirement, you will only receive SNAP benefits for three months in a 36-month period” (Exhibit D-2).
- 5) The May 15, 2023 notice provided instructions and contact information to report participation in a work requirement or an exemption, to submit inquiries regarding changes in SNAP benefits, and “if you are a West Virginia adult under 50 years of age and wish to continue receiving SNAP benefits” (Exhibit D-2).
- 6) Inability to work due to a physical or mental limitation is listed as a potential exemption on the May 15, 2023 notice (Exhibit D-2).
- 7) The May 15, 2023 notice was addressed to the Appellant at [REDACTED] (Exhibit D-2).
- 8) The May 15, 2023 notice does not provide a specific date by which the Appellant was required to report his participation in a work requirement or exemption (Exhibit D-2).
- 9) On May 31, 2023, the Appellant reported his address as [REDACTED] (Exhibit D-7).
- 10) The Appellant signed a lease agreement term from May 30, 2023, through May 30, 2024 — for [REDACTED] (Exhibit D-7).
- 11) On May 31, 2023, the Appellant submitted an eligibility review form (Exhibit D-7).

- 12) On May 30, 2023, the Appellant certified by signature that “the statements on this form are true and correct to the best of my knowledge” (Exhibit D-7).
- 13) The Appellant checked “yes” on the May 31, 2023 eligibility review form, Section 8 *Able-Bodied Adults Without Dependents*, question inquiring whether a person under age 18 is in the AG” (Exhibit D-7).

### **APPLICABLE POLICY**

**West Virginia Income Maintenance Manual (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 § 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

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

Verification is the use of documentation or 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 § 273.24 *Time limit for able-bodied adults* provides in the relevant sections:**

(a) *Definitions* ...

(1) *Fulfilling the work requirement* means:

- (i) Working 20 hours per week, averaged monthly ...
- (ii) Participating in and complying with the requirements of a work program 20 hours per week ...
- (iii) Any combination of working and participating in a work program for a total of 20 hours per week ...
- (iv) Participating in and complying with a workfare program ...

(b) *General Rule*. Individuals are not eligible to participate in SNAP as a member of any household if the individual received SNAP benefits for more than three countable months during any three-year period, except that individual may be eligible for up to three additional countable months in accordance with paragraph (e) of this section.

(1) *Countable months*. Countable months are months during which an individual receives SNAP benefits for the full benefit month while not:

- (i) Exempt under paragraph (c) of this section;
- (ii) Covered by a waiver under paragraph (f) of this section;
- (iii) Fulfilling the work requirement as defined in paragraph (a)(1) of this section;
- (iv) Receiving benefits that are prorated in accordance with § 273.10; or
- (v) In the month of notification from the State agency of a provider determination ...

(8) The state agency shall inform all ABAWDs of the ABAWD work requirement and time limit both in writing and orally in accordance with § 273.7(c)(1)(ii) and (iii).

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

- (a) *Persons required to register.* Each household member who is not exempt by paragraph (b)(1) of this section shall be registered for employment by the State agency at the time of application, and once every twelve months after initial registration, as a condition of eligibility ....
- (b) *Exemptions from work registration.*
  - (1) The following persons are exempt from the work registration requirement ...
  - (ii) A person physically or mentally unfit for employment. If mental or physical unfitness is claimed and the unfitness is not evident to the State agency, verification may be required ....

**Code of Federal Regulations 7 CFR § 273.7(c)(1) *Work Requirements* — *State agency responsibilities* provides in relevant sections:**

- (i) The State agency must register for work each household member not exempted ... The state must permit the applicant to complete a record or form for each household member required to register for employment.
- (ii) 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 work requirements include the general work requirement in paragraph (a) of this section ... and the ABAWD work requirements at § 273.24. 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.
- (iii) The consolidated written notice must include all pertinent information related to each of the applicable work requirements, including: An explanation of each applicable work requirement and which individuals are subject to which work requirement; exemptions from each applicable work requirement; an explanation of the process to request an exemption (including contact information to request an exemption); the rights and responsibilities of each applicable work requirement; what is required to maintain eligibility under each applicable work requirement; pertinent dates by which an individual must take any actions to remain in compliance with applicable work requirement [emphasis added]; the consequences for failure to comply with each applicable work requirement; an explanation of the process for requesting good cause (including examples of good cause circumstances and contact information to

initiate a good cause request); and any other information the State agency believes would assist the household members with compliance .... In addition, as stated in paragraph (c)(2) of this section and § 273.24(b)(8), the State agency must provide a comprehensive oral explanation to the household of each applicable work requirement pertaining to individuals in the household [emphasis added].

## **DISCUSSION**

The Respondent terminated the Appellant's SNAP benefits, after September 30, 2023, because it was determined he was an Able-Bodied Adult who received SNAP for three months without meeting the work requirement or being exempt. The Appellant argued that he did not receive the May 15, 2023 notice advising of his ABAWD status and work requirement. The Appellant argued that he would have complied with the program requirement if he had been notified. The Appellant testified that he has a social security claim pending regarding mental health disability. The submitted evidence did not indicate that the Appellant had previously made the Respondent aware of his potential disability status.

The Respondent bears the burden of proof and had to demonstrate by a preponderance of the evidence that the Appellant's SNAP benefits were correctly terminated because he was an ABAWD who received three months of SNAP benefits without meeting the work requirement or being exempt. Further, the evidence had to establish that the Appellant was properly notified of his work requirement. The Appellant did not contest that he received three months of SNAP benefits without meeting a work requirement. The Appellant's testimony indicated that he may have a disability that prevents him from complying with the work requirement.

### **Notification**

#### **Notification of the Work Requirement**

During the hearing, the Respondent's representative testified that the May 15, 2023 notice advised the Appellant he would have to prove by July 1, 2023, that he was participating in a work requirement activity or met an exemption. The Respondent's representative testified that the notice advised that the Appellant would have to show proof of an exemption or participation in a work requirement activity before the Appellant's benefits were terminated.

The Appellant contended that he did not receive the notice due to an address change. The evidence revealed that the Appellant did not report an address change until after the issuance of the May 15, 2023 notice.

During the hearing, the Respondent's representative testified that the August 28, 2023 notice of SNAP termination provided the Appellant with "plenty of time" to contact the Respondent regarding the work requirement policy before the onset of the SNAP termination on October 1, 2023. The Appellant argued that he tried to reach the Respondent, and no one called the Appellant back until after the hearing request had been submitted.

Federal regulations require the Respondent to inform the Appellant of the ABAWD work requirement and time limit both in writing and orally. The regulations stipulated that the Respondent's written notice and oral explanation must include all applicable work requirements for each member of the household, identify which household member is subject to which work requirement, include exemptions from each applicable work requirement, include pertinent dates by which an individual must take any actions to remain in compliance with applicable work requirements, and other listed criteria.

After the COVID-19 pandemic-related pause of the able-bodied adult time limit policy, the evidence revealed that the Respondent notified SNAP recipients in masse of the resuming work requirement policy. The May 15, 2023 notice was a "Message To All West Virginia SNAP Recipients Ages 18 to 49," and provided general information regarding the requirement to meet and report participation in or exemption from a work requirement. The notice did not identify pertinent dates by which the Appellant was required to act to remain in compliance with applicable work requirements and only provided general information and time frames.

The federal regulations require that the Appellant be notified of his work requirement orally and in writing. Interviews are required to be conducted upon eligibility review; however, the submitted evidence did not verify that an interview was conducted with the Appellant. The ABAWD section of the review form contains information that contradicts the Appellant's recorded one-person SNAP AG. This discrepancy constitutes a reported change that must be acted on and the Respondent's Worker should have sought clarification of this information to determine whether the Appellant was exempt from the ABAWD work requirement. This information could have been clarified during the Appellant's eligibility interview, but sufficient evidence was not submitted to verify that the Respondent had notified the Appellant and explained orally his ABAWD work requirements and pertinent dates by which he must comply.

The Appellant argued that he was not advised of his work requirement in advance of the August 2023 decision to terminate his SNAP eligibility. The preponderance of the evidence failed to prove that the Appellant was informed of his work responsibility orally and in writing; therefore, the Respondent's decision to terminate the Appellant's SNAP benefits, effective October 1, 2023, cannot be affirmed. The Respondent must provide the Appellant with sufficient written notice, oral explanation, and time to comply with the work requirement before terminating his SNAP benefits. The Appellant testified during the hearing that he has a pending disability status related to a mental illness; therefore, the Respondent must seek verification of the Appellant's reported disability and determine whether the Appellant meets a work requirement exemption.

### **CONCLUSIONS OF LAW**

- 1) Federal regulations require the Respondent to provide the Appellant with a written notice and oral explanation of all applicable work requirements that identify which household member is subject to which work requirement.
- 2) The written notice must include pertinent dates by which an individual must take any action to remain in compliance with applicable work requirements.



- 3) The preponderance of the evidence revealed that the Respondent failed to provide the Appellant with sufficient written notice and oral explanation of all applicable work requirements and pertinent dates by which he must act to remain in compliance.
- 4) The Respondent must issue a written notice and oral explanation of all applicable work requirements and pertinent dates by which he must act to remain in compliance.
- 5) Because the Appellant's eligibility review form contained inconsistent information with the Respondent's record of the AG's composition, the Respondent must seek verification of the AG's household composition.
- 6) Because the Appellant reported during the hearing that he has a potential disability, the Respondent must request verification of the Appellant's statement and determine if he meets an exemption to the ABAWD work requirement.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to terminate the Appellant's SNAP benefits because he failed to comply with the work requirement or meet an exemption. It is hereby **ORDERED** that any lost benefits be restored and made retroactive to the date of termination. The matter is **REMANDED** for the issuance of proper written notice and oral explanation of all the Appellant's applicable work requirements and pertinent dates by which he must act to remain in compliance. The matter is **REMANDED** for verification of the client's statements regarding his household composition and disability status and a new determination by the Respondent regarding his ongoing SNAP eligibility.

Entered this 3<sup>rd</sup> day of November 2023.

---

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