



**STATE OF WEST VIRGINIA  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW**

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

**Esta es la decision de su Audiencia Imparcial.  
La decision del Departamento ha sido  
confirmada/invertido/remitido. Si usted tiene  
preguntas, por favor llame 304-267-0100**

**Christopher G. Nelson**  
Interim Inspector General

January 24, 2024

[REDACTED]

RE: [REDACTED] v. WV DoHS  
ACTION NO.: 23-BOR-3645

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 Human Services. 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,

Lori Woodward, J.D.  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Peter VanKleeck, WV DoHS, BFA

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW**

██████████,

**Appellant,**

**v.**

**Action Number: 23-BOR-3645**

**WEST VIRGINIA DEPARTMENT OF  
HUMAN SERVICES  
BUREAU FOR FAMILY ASSISTANCE,**

**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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on January 10, 2024.

The matter before the Hearing Officer arises from the November 6, 2023 decision by the Respondent to close Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Peter VanKleeck, Family Support Supervisor. The Appellant appeared *pro se*. All witnesses were sworn, and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Hearing Summary
- D-2 Verification Request (DFA-6), dated November 15, 2023
- D-3 Copies of pay statements October 20 and November 17, 2023; partial summary of pay statements for October 20, November 3 and 17, 2023
- D-4 Income Maintenance Manual, Chapter 1, §1.3.1.A.3 (excerpt)

**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) Effective July 1, 2023, all West Virginia SNAP recipients, between the ages of 18 and 52, were required to comply with the Abled Bodied Adults Without Dependents (ABAWD) requirements or provide verification of their exemption to the requirements.
- 2) The Appellant is considered an ABAWD who must meet work requirements or an exemption to continue receiving SNAP benefits.
- 3) The Appellant was eligible for SNAP assistance for three months in a three-year period without meeting the work requirements or an exemption.
- 4) The Appellant received SNAP benefits for the months of July, August, and September 2023.
- 5) On October 23, 2023, a periodic report form (PRC-2) was sent to the Appellant to complete. (Exhibit D-1)
- 6) On November 6, 2023, the Respondent sent notification of SNAP closure to the Appellant with the last day of benefits to be November 30, 2023.
- 7) The November 6, 2023 notification, cited the reasons for closure as: the Appellant received SNAP for his first three month period without meeting the ABAWD work requirement or being exempt; [REDACTED] failed to register with WorkForce West Virginia; and failure to complete the periodic reporting requirements.
- 8) The Appellant and his AG member, [REDACTED] are required to meet SNAP work requirements.
- 9) Both the Appellant and [REDACTED] met the SNAP work requirement by registering with WorkForce West Virginia in July 2023.
- 10) The Respondent applied a SNAP work requirement penalty against [REDACTED] in error.
- 11) On November 6, 2023, the Appellant submitted his PRC-2. (Exhibit D-1)
- 12) A Request for Verification (DFA-6) of income from the Appellant's new employment was requested on November 15, 2023 showing hours worked and gross income received on and between October 16 and November 14, 2023, due by November 25, 2023. (Exhibit D-2)
- 13) On November 27, 2023, the Respondent received the Appellant's pay statements for October 20 and November 17, 2023, along with a partial summary of net pay for October 20, November 3 and 17, 2023. (Exhibit D-3)

14) The Appellant's submitted pay statements contained enough information to determine the gross income for the requested time period to make a SNAP financial eligibility determination. (Exhibit D-3)

15) The Respondent terminated the Appellant's SNAP benefits effective December 1, 2023.

### **APPLICABLE POLICY**

#### **Abled Bodied Adults Without Dependents (ABAWD) POLICY:**

##### **Code of Federal Regulations, 7 CFR 273.24, in part:**

(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 individuals 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 in accordance with § 273.7(c)(18)(i).

...

(3) **Measuring the three-year period.** The State agency may measure and track the three-year period as it deems appropriate. The State agency may use either a "fixed" or "rolling" clock. If the State agency chooses to switch tracking methods, it must inform FNS in writing. With respect to a State, the three-year period:

- (i) Shall be measured and tracked consistently so that individuals who are similarly situated are treated the same; and
- (ii) Shall not include any period before the earlier of November 22, 1996, or the date the State notified SNAP recipients of the application of Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193).

...

(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).

(c) **Exceptions.** The time limit does not apply to an individual if he or she is:

- (1) Under 18 or 50 years of age or older;
- (2) Determined by the State agency to be medically certified as physically or mentally unfit for employment. An individual is medically certified as physically or mentally unfit for employment if he or she:
  - (i) Is receiving temporary or permanent disability benefits issued by governmental or private sources;
  - (ii) Is obviously mentally or physically unfit for employment as determined by the State agency; or

(iii) If the unfitness is not obvious, provides a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist, a social worker, or any other medical personnel the State agency determines appropriate, that he or she is physically or mentally unfit for employment.

(3) Is a parent (natural, adoptive, or step) of a household member under age 18, even if the household member who is under 18 is not himself eligible for SNAP benefits;

(4) Is residing in a household where a household member is under age 18, even if the household member who is under 18 is not himself eligible for SNAP benefits;

(5) Is otherwise exempt from work requirements under section 6(d)(2) of the Food and Nutrition Act of 2008, as implemented in regulations at § 273.7(b); or

(6) Is pregnant.

**(d) *Regaining eligibility.***

(1) An individual denied eligibility under paragraph (b) of this section, or who did not reapply for benefits because he was not meeting the work requirements under paragraph (b) of this section, shall regain eligibility to participate in SNAP if, as determined by the State agency, during any 30 consecutive days, he or she:

(i) Worked 80 or more hours;

(ii) Participated in and complied with the requirements of a work program for 80 or more hours;

(iii) Any combination of work and participation in a work program for a total of 80 hours; or participated in and complied with a workfare program; or

(iv) At State agency option, verifies that he or she will meet one of the requirements in paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(iii), or (d)(1)(v) of this section, within the 30 days subsequent to application; or

(v) Becomes exempt.

**Code Of Federal Regulations, 7 CFR 273.7(c), in part:**

(c) State agency responsibilities.

(1)

(i) The State agency must register for work each household member not exempted by the provisions of paragraph (b)(1) of this section. The State agency must permit the applicant to complete a record or form for each household member required to register for employment in accordance with paragraph (a)(1)(i) of this section. Household members are considered to have registered when an identifiable work registration form is submitted to the State agency or when the registration is otherwise annotated or recorded by the State agency.

(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. These work requirements include the general work requirement in paragraph (a) of this section, mandatory E&T in paragraph (a)(1)(ii) of this section, and the ABAWD work requirement 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; 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 each applicable work requirement; 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. If an individual is subject to mandatory E&T, the written notice must also explain the individual's right to receive participant reimbursements for allowable expenses related to participation in E&T, up to any applicable State cap, and the responsibility of the State agency to exempt the individual from the requirement to participate in E&T if the individual's allowable expenses exceed what the State agency will reimburse, as provided in paragraph (d)(4) of this section. 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.

(3) After learning of an individual's non-compliance with SNAP work requirements, the State agency must issue a notice of adverse action to the individual, or to the household if appropriate, within 10 days of establishing that the noncompliance was without good cause. The notice of adverse action must meet the timeliness and adequacy requirements of § 273.13. If the individual complies before the end of the advance notice period, the State agency will cancel the adverse action. If the State agency offers a conciliation process as part of its E&T program, it must issue the notice of adverse action no later than the end of the conciliation period. Mandatory E&T participants who have received a provider determination in accordance with paragraph (c)(18)(i) of this section shall not be subject to disqualification for refusal without good cause to participate in a mandatory E&T program until after the State has taken one of the four actions in paragraph (c)(18)(i)(B) of this section, and the individual subsequently refuses to participate without good cause.

**WV IMM, Chapter 3, §3.2.1.D.1.a, Expanding the Target Audience:**

- Effective October 1, 2022, all West Virginia counties are required to enforce the ABAWD work requirement per WV state code §9-8-2.
- Effective September 1, 2023, all 50-year-olds receiving SNAP (who are not exempt) must meet the ABAWD work requirement per the Fiscal Responsibility Act of 2023.
- Effective October 1, 2023, all 51-and-52-year-olds receiving SNAP (who are not exempt) must meet the ABAWD work requirement per the Fiscal Responsibility Act of 2023.

**WV IMM Chapter 3, §3.2.1.D.2:**

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 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.

**WV IMM Chapter 3, §3.2.1.D.2 ABAWD Eligibility:**

For SNAP Assistance Groups, 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 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.

**WV IMM Chapter 3, §3.2.1.D.3 ABAWD Work Requirement:**

An ABAWD must meet the following ABAWD work requirements, in addition to the SNAP work requirements in Chapter 14, to be eligible. All work hours must be verified, including in-kind services and unpaid work. 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. The three months need not be consecutive and include SNAP benefits received from another state. The ABAWD work requirement is met by either:

- Working at least 20 hours per week or 80 hours a month;
- Participating in a work program such as, but not limited to: WorkForce Innovation and Opportunity Act (WIOA) Title I programs or a refugee resettlement program, at least 20 hours per week or 80 hours per month; or
- Participating in a SNAP E&T program for the required number of hours.

**WV IMM Chapter 3, §3.2.1.D.4 Exemptions from ABAWD Time Limits and ABAWD Work Requirements:**

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 a veteran of any United States military branch, regardless of discharge status. This includes individuals who served through the Army, Navy, Marine Corp, Air Force, Space Force, Coast Guard, National Guard, including those who served in a reserve component of the Armed Forces.
- 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 aged 24 years or younger and was in foster care on their 18th birthday. The former foster individual must have aged out of custody at the maximum allowable age. This could be older than 18 in other states. The former foster individual can receive this exemption until they turn 25 years old.
- Is meeting the definition of a homeless individual. An individual is considered homeless when they are living without shelter, residing in a shelter, sleeping in an area not designed to accommodate human beings, or have inconsistent housing. An individual who is living in a shelter, without shelter, or in an area not designed to accommodate human beings is homeless regardless of the amount of time spent in that living arrangement. After 90 consecutive days in one residence an individual is no longer considered to have inconsistent housing and is no longer considered homeless.
- Is the recipient of a discretionary exemption through the Division of Family Assistance (DFA). For any month in which a discretionary exemption has been granted, a case comment will be entered into the eligibility system. These exemptions qualify the individual to participate immediately, if otherwise eligible. These exemptions are only applicable to the ABAWD time limit and ABAWD work requirement and do not automatically exempt the individual from the SNAP work requirements in Chapter 14.



**WV IMM Chapter 3, §3.2.1.D.5 Determining the 36-Month Period:**

For all individuals, regardless of client's status or the county or state of residence, the first 36-month period began January 2016. The 36-month period remains fixed. Receiving SNAP months without being exempt or meeting the work requirement in another state counts towards the client's three-month limit in West Virginia. The worker must only count such months within the current 36-month period.

**WV IMM Chapter 3, §3.2.1.D.6 Determining the Three-Month Limit:**

Months in which the client received prorated benefits do not count toward the three-month limit. When circumstances change so that an Issuance Limited County (ILC) ABAWD, who has been exempt or meeting the Requirement, is no longer meeting an exemption or the work requirement, the first full countable month of the limit would be the month of benefits after the exemption ended.

**WV IMM, Chapter 9, §9.6 provides, in pertinent part:**

The Consolidated Work Notice (CWN) is the SNAP work requirement notification for the state of West Virginia. The CWN explains the requirements for SNAP members who must comply with either/both the SNAP Basic Work Rules or the Able-Bodied Adults without Dependents (ABAWD) Time Limit Rules. In addition, the CWN provides the AG with their right to a fair hearing, information on non-discrimination and how to contact the state ADA Coordinator if additional assistance is needed.

Individuals who are working enough hours or those who are exempt are not required to comply with work requirements. These individuals are not documented on the CWN. Demographic information entered into the eligibility system determines who must comply with work requirements.

The following information is detailed on the CWN:

**SNAP Basic Work Rules**

- An explanation of the different SNAP work requirements
- What qualifies as an exempt individual
- When and how each individual must register with job service through Workforce WV
- What happens if the work requirement is not followed
- What to do if the individual has a good cause situation
- Penalty periods for not complying with work requirements

**ABAWD Time Limit Rules**

- Why an individual is considered ABAWD
- How to meet the ABAWD work requirement
- Reporting when the individual is no longer meeting the requirement
- Who is exempt from ABAWD
- Penalty after receiving 3 months without meeting the requirement
- What to do if the individual has a good cause situation

The CWN is sent to the SNAP AG after application certification, redetermination, when an individual who was previously exempt is now subject to either work requirement, or when a new individual is added to the SNAP AG and must comply with either work requirement. The CWN is

available through the eligibility system and the PATH public portal.

**PERIODIC REPORTING REQUIREMENTS:**

**CODE OF FEDERAL REGULATIONS, 7 CFR 273.12 (a)(5)(iii):**

(iii) Periodic report.

(A) Exempt households. The State agency must not require the submission of periodic reports by households certified for 12 months or less in which all adult members are elderly or have a disability with no earned income.

(B) Submission of periodic reports by non-exempt households. Households that are certified for longer than 6 months, except those households described in §273.12(a)(5)(iii)(A), must file a periodic report between 4 months and 6 months, as required by the State agency. Households in which all adult members are elderly or have a disability with no earned income and are certified for periods lasting between 13 months and 24 months must file a periodic report once a year. In selecting a due date for the periodic report, the State agency must provide itself sufficient time to process reports so that households that have reported changes that will reduce or terminate benefits will receive adequate notice of action on the report in the first month of the new reporting period.

(C) The periodic report form must request from the household information on any changes in circumstances in accordance with paragraphs (a)(1)(i) through (a)(1)(vii) of this section and conform to the requirements of paragraph (b)(2) of this section.

(D) If the household files a complete report resulting in reduction or termination of benefits, the State agency shall send an adequate notice, as defined in § 271.2 of this chapter. The notice must be issued so that the household will receive it no later than the time that its benefits are normally received. If the household fails to provide sufficient information or verification regarding a deductible expense, the State agency will not terminate the household, but will instead determine the household's benefits without regard to the deduction.

(E) If a household fails to file a complete report by the specified filing date, the State agency shall provide the household with a reminder notice advising the household that it has 10 days from the date the State agency mails the notice to file a complete report. If an eligible household files a complete periodic report during this 10 day period, the State agency shall provide it with an opportunity to participate no later than ten days after its normal issuance date. If the household does not respond to the reminder notice, the household's participation shall be terminated and the State agency must send an adequate notice of termination described in paragraph (a)(5)(iii)(C) of this section.

(F) If an eligible household that has been terminated for failure to file a complete report files a complete report after its extended filing date under (E), but before the end of the issuance month, the State agency may choose to reinstate the household. If the household has requested a fair hearing on the basis that a complete periodic report was filed, but the State does not have it, the State agency shall reinstate the household if a completed periodic report is filed before the end of the issuance month.

(G) The periodic report form shall be the sole reporting requirement for any information that is required to be reported on the form, except that a household required to report less frequently than quarterly shall report:

- (1) When the household monthly gross income exceeds the monthly gross income limit for its household size in accordance with paragraph (a)(5)(v) of this section;
  - (2) Whenever able-bodied adults subject to the time limit of § 273.24 have their work hours fall below 20 hours per week, averaged monthly; and
  - (3) Whenever a member of the household wins substantial lottery or gambling winnings in accordance with § 273.11(r).
- (H) If the State agency uses a combined periodic report for SNAP and TANF or Medicaid, the State agency shall clearly indicate on the form that SNAP-only households need not provide information required by another program. Non-applicant household or family members need not provide SSNs or information about citizenship or immigration status.

**CODE OF FEDERAL REGULATIONS, 7 CFR 273.12(a)(5)(iv)**

(iv) *Processing periodic reports.* In selecting a due date for the periodic report, the State agency must provide itself sufficient time to process reports so that households will receive adequate notice of action on the report in the first month of the new reporting period. The State agency shall provide the household a reasonable period after the end of the last month covered by the report in which to return the report. The State agency shall provide the household a reasonable period after the end of the last month covered by the report in which to return the report. Benefits should be issued in accordance with the normal issuance cycle if a complete report was filed timely.

**WV IMM, Chapter 10, §10.4.2.D:**

All SNAP assistance groups (AGs) certified for 12 or 24 months must have a report completed in the mid-month of eligibility (the sixth month for 12-month certification periods, the twelfth month for 24-month certification periods). SNAP must not continue into the 7th/13th month of certification if a complete Interim Contact Report (PRC-2) is not submitted. If the PRC-2 is returned late in the 7th/13th month, the AG must reapply for SNAP.

If the PRC-2 is returned late in the 7th/13th month, the worker will NOT update the eligibility system with any information provided on the PRC-2. The Interim Contact Report (PRC-2) differs from a full scale redetermination as follows:

- All sections of the Interim Contact Report (PRC-2) must be completed, and the form signed by the AG.
- The PRC-2 cannot be processed if received in the 7th month (for cases certified twelve months) or the 13th month (for cases certified for 24 months). The client MUST reapply.
- The contact report may be completed by mail.
- No interview is conducted unless the client requests one.

Verification of reported changes must be submitted for the report to be considered complete. If a change is reported that requires verification, it must be requested using a DFA-6. Failure to provide requested verification results in AG closure or loss of a deduction after advance notice.

The eligibility system automatically mails an Interim Contact Report form (PRC-2) to the AGs for the mid-month of eligibility. Failure to return the completed PRC-2 results in

case closure. Changes reported on the PRC-2 are treated as changes reported during the certification period, not as changes reported during the completion of a redetermination. An application form cannot be used in substitution of an Interim Contact Report form (PRC-2) during the report month.

When a SNAP AG is closed for failure to complete the Interim Contact Report (PRC-2), a new application is not required when the form is returned by:

- The last day of the 12th month for households certified for 24 months
- The last day of the 6th month for households certified for 12 months

If the PRC-2 is not returned, a new application for SNAP must be completed.

**WV IMM, Chapter 9, §9.2.1 Dfa-6, Notice Of Information Needed**, in pertinent part: The DFA-6 may be used during any phase of the eligibility determination process.

**WV IMM, Chapter 9, §9.3.5.A, Case Maintenance for All Programs:** The date entered in the DFA-6 must be at least 10 days from the date the DFA-6 is completed. If the client fails, without good cause, to provide the information by the established date, a DFANL-C must be sent to notify the client of the failure and the resulting case action.

**WV IMM, Chapter 9, §9.3.1.D.2, Advance Notice Period Expires the First of the Following Month or Later:** If the 13-day advance notice period does not expire until the first day of the following month or later, the change is not effective until the month following the end of the 13-day advance notice period.

## **DISCUSSION**

State and federal regulations require an individual who meets the definition of an ABAWD work at least 20 hours per week, or 80 hours per month, or meet an exemption to receive SNAP benefits. An ABAWD may receive three months of SNAP benefits during a 36-month period without compliance with work requirements. Additionally, policy requires that all SNAP assistance groups (AGs) certified for 12 or 24 months must have a report completed in the mid-month of eligibility (the sixth month for 12-month certification periods, the twelfth month for 24-month certification periods). Verification of reported changes must be submitted for the report to be considered complete. Failure to provide the requested verification results in AG closure or loss of a deduction after advance notice.

On November 6, 2023, the Respondent notified the Appellant that his AG would receive their last SNAP benefits on November 30, 2023. This notice stated the reasons for the benefit closure were: 1) the Appellant received his first 3-month period of SNAP benefits without meeting a work requirement or being exempt from the ABAWD policy; 2) AG member [REDACTED] failed to register with WorkForce West Virginia (WFWV); and 3) the Appellant did not comply with periodic reporting requirements.

### **ABAWD WORK REQUIREMENT:**

State and federal regulations require that individuals who are considered to be ABAWDs must be provided with notification in a Consolidated Work Notice (CWN). The CWN must advise

individuals who are considered ABAWDs of the policy requirements and that the individual is subject to those requirements. There was no evidence presented that the Appellant received proper notification that he was subject to ABAWD work requirements. The testimony only showed that the Respondent sent the Appellant notification of SNAP closure on November 6, 2023. This notification did not meet ABAWD regulatory requirements.

**PERIODIC REPORTING FORM (PRC-2):**

The Department's representative, Peter VanKleeck, testified that a PRC-2 was sent to the Appellant on October 23, 2023. On November 6, 2023, the Appellant returned the PRC-2 reporting the onset of earned income from new employment. On November 15, 2023, the Respondent requested that the Appellant provide verification of his new employment income by November 25, 2023. The Appellant was asked to provide the hours worked and gross income received on and between October 16 and November 14, 2023.

On November 27, 2023, the Respondent received pay statements for October 20 and November 17, 2023, along with a partial summary of net pay for October 20, November 3 and 17, 2023. Mr. VanKleeck testified that the Department was unable to glean the gross pay the Appellant received for November 3, 2023 from the submitted documents. The Appellant's SNAP benefits were terminated effective December 1, 2023. There was no evidence presented showing that the Respondent issued notice that the Appellant failed to meet the verification request and the resulting action being taken.

The Appellant's pay statements submitted in response to the Respondent's verification request did provide enough information necessary to calculate the Appellant's gross monthly income from his new employment for SNAP financial eligibility determination. Both the October 20 and November 17, 2023 pay statements show the gross income received on those dates. Additionally, on the bottom of the November 17, 2023 pay statement, the year-to-date gross income total showed the amount of \$1,170. The gross income amount of \$390 (October 20) plus the gross income amount of \$520 (November 17) equals \$910, which when subtracted from the year-to-date amount equals \$260. The net amounts provided in the net payment summary page submitted by the Appellant totals a net pay amount of \$1,052.49 (\$351.19 + 234.11 + 467.22), equals the total year-to-date net pay amount on the bottom of the November 17, 2023 pay statement. Thus, the amount \$260 gross pay amount for the November 3, 2023 pay date can be extrapolated from the submitted documentation.

Because the Appellant submitted pay statements which the gross income could be calculated for the requested time period, the Respondent should have made a determination regarding the Appellant's financial SNAP eligibility. Additionally, there was no evidence presented to show that the Respondent sent notification to the Appellant that the submitted pay statements were deemed incomplete by the Respondent (albeit incorrectly) and the resulting action.

**WORK FORCE WEST VIRGINIA REGISTRATION:**

Regarding the removal of [REDACTED] from the Appellant's SNAP AG for failure to register with WorkForce West Virginia, Mr. VanKleeck testified that the agency placed a penalty against [REDACTED] in error. He found that both the Appellant and [REDACTED] had registered with WFWV. Mr. VanKleeck stated he removed [REDACTED] work requirement penalty.

## **CONCLUSIONS OF LAW**

- 1) State and federal regulations require an individual who meets the definition of an ABAWD to work at least 20 hours per week, or 80 hours per month, or meet an exemption to receive SNAP benefits.
- 2) A Consolidated Work Notice must be provided with notification to individuals who are considered to be an ABAWD.
- 3) The Appellant is considered an ABAWD and must comply with SNAP work requirements or meet an exemption.
- 4) An ABAWD may receive three months of SNAP benefits during a 36-month period without compliance with work requirements.
- 5) The Appellant received his first full three months of SNAP – July, August, and September, 2023.
- 6) The evidence presented failed to show that the Appellant was provided proper ABAWD notification prior to terminating his SNAP benefits effective December 1, 2023.
- 7) All SNAP recipients must complete a mid-certification review.
- 8) Verification is required when an individual reports a change in circumstances during a certification period.
- 9) Because the Appellant reported new employment, he was required to provide verification of this new income by November 25, 2023.
- 10) The pay statements submitted by the Appellant on November 27, 2023 provided enough information to determine gross pay information for the time period requested to make a determination for financial eligibility for SNAP.
- 11) There was no notification sent to the Appellant regarding the Respondent's decision that the submitted pay statements were deemed to be incomplete and the result of such determination.
- 12) The Respondent incorrectly applied a work requirement penalty against the Appellant's AG member, [REDACTED], but had been removed prior to the hearing.
- 13) The Respondent's decision to terminate the Appellant's SNAP benefits effective December 1, 2023 cannot be affirmed.

### **DECISION**

It is the decision of the Hearing Officer to **REVERSE** the Respondent's November 6, 2023 decision to close the Appellant's SNAP benefits effective December 1, 2023. The case is **REMANDED** to re-calculate the Appellant's financial SNAP eligibility based on the submitted income verification and to also provide the Appellant proper ABAWD notification.

**ENTERED this 24<sup>th</sup> day of January 2024.**

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Lori Woodward, Certified State Hearing Officer