



April 3, 2025



RE: [REDACTED] v. WVDoHS
ACTION NO.: 25-BOR-1567

Dear Ms. [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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Angela Allen, WVDoHS

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

██████████,

Appellant,

v.

Action Number: 25-BOR-1567

**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 West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on April 1, 2025.

The matter before the Hearing Officer arises from the Respondent's decision to deny Supplemental Nutrition Assistance Program (SNAP) benefits for ██████████ as outlined in a notice dated January 21, 2025.

At the hearing, the Respondent appeared by Angela Allen, Economic Service Worker, WVDoHS. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, the Appellant's husband. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Current Enrollment Verification Certificate from ██████████
- D-2 Work schedule verification for ██████████ dated February 25, 2025
- D-3 Case Comments from Respondent's computer system
- D-4 West Virginia Income Maintenance Manual Chapters 3.2.1.E and 3.2.1.E.2
- D-5 Notice of Decision dated January 21, 2025

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 a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) The Appellant is employed and was previously determined to be an eligible student for SNAP purposes (Exhibit D-2).
- 3) The Appellant currently receives the maximum monthly SNAP benefit for a one-person Assistance Group (\$292 per month) (Exhibit D-5).
- 4) The Appellant's husband, [REDACTED], is enrolled as a half-time college student and currently takes courses through [REDACTED] (Exhibit D-1).
- 5) [REDACTED] does not meet a student exemption for SNAP purposes and is not included in the Appellant's SNAP benefits.
- 6) The Respondent sent the Appellant a Notice of Decision on January 21, 2025, informing her that she was approved for SNAP benefits but [REDACTED] was denied because he is considered an ineligible student (Exhibit D-5).

APPLICABLE POLICY

Code of Federal Regulations 7 CFR § 273.5 states:

§ 273.5 Students.

(a) ***Applicability.*** An individual who is enrolled at least half-time in an institution of higher education shall be ineligible to participate in SNAP unless the individual qualifies for one of the exemptions contained in [paragraph \(b\)](#) of this section. An individual is considered to be enrolled in an institution of higher education if the individual is enrolled in a business, technical, trade, or vocational school that normally requires a high school diploma or equivalency certificate for enrollment in the curriculum or if the individual is enrolled in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required.

(b) ***Student Exemptions.*** To be eligible for the program, a student as defined in paragraph (a) of the section must meet at least one of the following criteria.

- (1) Be age 17 or younger or age 50 or older;

- (2) Be physically or mentally unfit;
- (3) Be receiving Temporary Assistance for Needy Families under Title IV of the Social Security Act;
- (4) Be enrolled as a result of participation in the Job Opportunities and Basic Skills program under Title IV of the Social Security Act or its successor program;
- (5) Be employed for a minimum of 20 hours per week and be paid for such employment or, if self-employed, be employed for a minimum of 20 hours per week and receiving weekly earnings at least equal to the Federal minimum wage multiplied by 20 hours. The State agency may choose to determine compliance with this requirement by calculating whether the student worked an average of 20 hours per week over the period of a month, quarter, trimester or semester. State agencies may choose to exclude hours accrued during academic breaks that do not exceed one month. A State agency that chooses to average student work hours must specify this choice and specify the time period over which the work hours will be averaged in its State plan of operation;
- (6) Be participating in a State or federally financed work study program during the regular school year.
 - (i) To qualify under this provision, the student must be approved for work study at the time of application for SNAP benefits, the work study must be approved for the school term, and the student must anticipate actually working during that time. The exemption shall begin with the month in which the school term begins or the month work study is approved, whichever is later. Once begun, the exemption shall continue until the end of the month in which the school term ends, or it becomes known that the student has refused an assignment.
 - (ii) The exemption shall not continue between terms when there is a break of a full month or longer unless the student is participating in work study during the break.
- (7) Be participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer;
- (8) Be responsible for the care of a dependent household member under the age of 6;

- (9) Be responsible for the care of a dependent household member who has reached the age of 6 but is under age 12 when the State agency has determined that adequate child care is not available to enable the student to attend class and comply with the work requirements of [paragraph \(b\)\(5\)](#) or [\(b\)\(6\)](#) of this section;
- (10) Be a single parent enrolled in an institution of higher education on a full-time basis (as determined by the institution) and be responsible for the care of a dependent child under age 12.
 - (i) This provision applies in those situations where only one natural, adoptive or stepparent (regardless of marital status) is in the same SNAP household as the child.
 - (ii) If no natural, adoptive or stepparent is in the same SNAP household as the child, another full-time student in the same SNAP household as the child may qualify for eligible student status under this provision if he or she has parental control over the child and is not living with his or her spouse.
- (11) Be assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the programs identified in [paragraphs \(b\)\(11\)\(i\) through \(b\)\(11\)\(iv\)](#) of this section. Self-initiated placements during the period of time the person is enrolled in one of these employment and training programs shall be considered to be in compliance with the requirements of the employment and training program in which the person is enrolled provided that the program has a component for enrollment in an institution of higher education and that program accepts the placement. Persons who voluntarily participate in one of these employment and training programs and are placed in an institution of higher education through or in compliance with the requirements of the program shall also qualify for the exemption. The programs are:
 - (i) A program under the Job Training Partnership Act of 1974 ([29 U.S.C. 1501](#), *et seq.*);
 - (ii) An employment and training program under [§ 273.7](#), subject to the condition that the course or program of study, as determined by the State agency:
 - (A) Is part of a program of career and technical education as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 ([20 U.S.C. 2302](#)) designed to be completed in not more than 4 years at an institution of

higher education as defined in section 102 of the Higher Education Act of 1965 ([20 U.S.C. 2296](#)); or

(B) is limited to remedial courses, basic adult education, literacy, or English as a second language.

(iii) A program under section 236 of the Trade Act of 1974 ([19 U.S.C. 2296](#)); or

(iv) An employment and training program for low-income households that is operated by a State or local government where one or more of the components of such program is at least equivalent to an acceptable SNAP employment and training program component as specified in [§ 273.7\(e\)\(1\)](#). Using the criteria in [§ 273.7\(e\)\(1\)](#), State agencies shall make the determinations as to whether or not the programs qualify.

West Virginia Income Maintenance Manual Chapter 3.2.1.E states that 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 an exemption.

Code of Federal Regulations 7 CFR § 273.2(f)(1)(xi) states that if a person claims to be physically or mentally unfit for purposes of the student exemption contained in [§ 273.5\(b\)\(2\)](#) and the unfitness is not evident to the State agency, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist.

DISCUSSION

Policy defines a student as an individual who is enrolled at least half time in a recognized school, training program or institute of higher education. To qualify for SNAP benefits as a student, an individual must meet one of the student exemptions defined in policy.

The Appellant testified that she is no longer enrolled in school but is still employed. She stated that she has a disability and her husband helps care for her, and that her husband has been diagnosed with schizoaffective disorder. The Respondent's representative, Angela Allen, noted that there is no student exemption listed in policy for providing care to a disabled adult; however, a person who is determined to be physically or mentally unfit for employment can receive an exemption with documentation from a medical professional. Ms. Allen indicated that Mr. [REDACTED] could provide a medical statement concerning his fitness for employment and be evaluated for a possible student exemption.

Mr. [REDACTED] contended that he believes he has been wrongly denied benefits several times in the past.

As no evidence was provided to verify that [REDACTED] meets an exemption to the student policy, the Respondent correctly determined that he is ineligible for SNAP benefits.

CONCLUSIONS OF LAW

- 1) To qualify for SNAP benefits as a student, an individual must meet one of the student exemptions defined in policy.
- 2) No evidence was provided to demonstrate that [REDACTED] currently meets a student exemption.
- 3) The Respondent's decision to deny SNAP benefits for Mr. [REDACTED] is correct.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to deny SNAP benefits for [REDACTED].

ENTERED this 3rd day of April 2025.

**Pamela L. Hinzman
State Hearing Officer**