



May 21, 2026

[REDACTED]

RE: [REDACTED] v. WV DoHS
ACTION NO.: 26-BOR-1601

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 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,

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

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

cc: Stephanie Baker, WV DoHS

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

██████████,

Appellant,

v.

Action Number: 26-BOR-1601

**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 May 13, 2026.

The matter before the Hearing Officer arises from the Respondent's denial of Supplemental Nutrition Assistance Program (SNAP) benefits as outlined in a notice dated March 25, 2026.

At the hearing, the Respondent appeared by Stephanie Baker, Economic Service Worker, WV DoHS; Pam Babinchok, Economic Services Supervisor, WV DoHS; and Stacy Kasprowicz, Economic Services Supervisor, WV DoHS. The Appellant was self-represented. Appearing as a witness for the Appellant was ██████████ the Appellant's girlfriend. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 West Virginia Income Maintenance Manual Chapter 3.2.1.B.3
- D-2 YouTube internet link information concerning Appellant's court sentencing, internet links to news stories concerning Appellant's automobile accident, indictment and sentencing, and news story from The Review

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 completed an in-office Supplemental Nutrition Assistance Program (SNAP) application on January 13, 2026.
- 2) During the interview, the Respondent indicated that he had been incarcerated for driving impaired in conjunction with a 2017 traffic accident that resulted in the death of another individual.
- 3) The Respondent denied the Appellant's SNAP application based on a drug felony violation.
- 4) The Respondent sent the Appellant a Notice of Decision on March 25, 2026, indicating that his SNAP application was denied based on disqualification due to a drug felony violation.
- 5) The Appellant was indicted on charges of aggravated vehicular homicide, operating a vehicle while impaired, and driving under a suspension in conjunction with the 2017 traffic accident (Exhibit D-2).
- 6) The Appellant's blood alcohol content was allegedly at least .170 at the time of the accident (Exhibit D-2).
- 7) The Appellant was sentenced to prison in conjunction with the accident.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 3.2.1.B.3 addresses individuals excluded by law from receiving SNAP benefits, including persons convicted of a felony offense that occurred after August 22, 1996, involving a controlled substance:

The offense involved one of the following elements due to the possession, use or distribution of a controlled substance as defined by Section 802 (6) of the Controlled Substance Act:

- Misuse of SNAP benefits
- Loss of life
- The causing of physical injury

This does not include convictions which have since been expunged or reduced to lesser convictions as part of a criminal offense reduction program.

House Bill 2459 was passed by the West Virginia Legislature on February 20, 2019. This law requires that individuals with drug felonies, that do not include any of the three elements listed above be eligible for SNAP benefits. This law is effective 90 days from passage. In order for a convicted drug felon to be eligible for SNAP benefits in May 2019, the application must be received on or after May 21, 2019.

Period of ineligibility: Permanent exclusion

There is no period of ineligibility for a drug felony conviction, that does not result in misuse of SNAP benefits, loss of life or the causing of physical injury.

Title 21, United States Code, Controlled Substances Act, Section 802 (6);

6) The term “controlled substance” means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this subchapter. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986.

Code of Federal Regulations 7 CFR 273.1(b)(7) addresses individuals who are ineligible to receive SNAP benefits:

7) Ineligible household members. The following persons are not eligible to participate as separate households or as a member of any household:

(i) Ineligible aliens and students as specified in [§§ 273.4](#) and [273.5](#), respectively;

(ii) SSI recipients in “cash-out” States as specified in [§ 273.20](#);

(iii) Individuals disqualified for noncompliance with the work requirements of [§ 273.7](#);

(iv) Individuals disqualified for failure to provide an SSN as specified in [§ 273.6](#);

(v) Individuals disqualified for an intentional Program violation as specified in [§ 273.16](#); and

(vi) Residents of an institution, with some exceptions. Individuals must be considered residents of an institution when the institution provides them with the majority of their meals (over 50 percent of three meals daily) as part of the institution’s normal services. Exceptions to this requirement include only the individuals listed in [paragraphs \(b\)\(7\)\(vii\)\(A\) through \(b\)\(7\)\(vii\)\(E\)](#) of this section. The individuals listed in paragraphs (b)(7)(vii)(A) through (b)(7)(vii)(E) can participate in the Program and must be treated as separate households from the others with whom they reside, subject to the mandatory household

combination requirements of [paragraph \(b\)\(1\)](#) of this section, unless otherwise stated:

(A) Individuals who are residents of federally subsidized housing for the elderly;

(B) Individuals who are narcotic addicts or alcoholics and reside at a facility or treatment center for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program. This includes the children but not the spouses of such persons who live with them at the treatment center or facility;

(C) Individuals who are disabled or blind and are residents of group living arrangements;

(D) Individual women or women with their children who are temporarily residing in a shelter for battered women and children; and

(E) Individuals who are residents of public or private nonprofit shelters for homeless persons.

(vii) Individuals who are ineligible under [§ 273.11\(m\)](#) because of a drug-related felony conviction.

(viii) At State agency option, individuals who are disqualified in another assistance program in accordance with [§ 273.11\(k\)](#).

(ix) Individuals who are fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, or who are violating a condition of probation or parole who are ineligible under [§ 273.11\(n\)](#).

(x) Individuals disqualified for failure to cooperate with child support enforcement agencies in accordance with [§ 273.11\(o\)](#) or [\(p\)](#), or for being delinquent in any court-ordered child support obligation in accordance with [§ 273.11\(q\)](#).

(xi) Persons ineligible under [§ 273.24](#), the time limit for able-bodied adults.

(xii) Individuals convicted of certain crimes and who are out of compliance with the terms of their sentence and ineligible under [§ 273.11\(s\)](#).

7 CFR 273.11(m):

(m) *Individuals convicted of drug-related felonies.* An individual convicted (under Federal or State law) of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in section 102(6) of the Controlled Substance Act, [21 U.S.C. 802\(6\)](#)) shall not be considered an eligible household

member unless the State legislature of the State where the individual is domiciled has enacted legislation exempting individuals domiciled in the State from the above exclusion. If the State legislature has enacted legislation limiting the period of disqualification, the period of ineligibility shall be equal to the length of the period provided under such legislation. Ineligibility under this provision is only limited to convictions based on behavior which occurred after August 22, 1996. The income and resources of individuals subject to disqualification under this [paragraph \(m\)](#) shall be treated in accordance with the procedures at [paragraph \(c\)\(1\)](#) of this section.

DISCUSSION

Policy stipulates that individuals convicted of a felony offense that occurred after August 22, 1996, involving a controlled substance as defined by Section 802 (6) of the Controlled Substances Act, are excluded by law from receiving SNAP benefits if the offense involved the misuse of SNAP benefits, loss of life, or the causing of physical injury. Under Section 802 (6) of the Controlled Substances Act, the term “controlled substance” does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986.

The Respondent contended that the Appellant’s SNAP application was denied because he allegedly reported having a drug felony conviction in regard to the 2017 traffic accident during his in-office interview.

The Appellant testified during the hearing that he was not convicted of a drug felony and must have become confused during the SNAP application when asked about his conviction, stating, “When she had asked me the question about drugs, it wasn’t drugs, it was alcohol. And I got confused when she was asking me about drugs because drugs is a totally different charge that what an alcohol charge is.” The Appellant contended that he had been drinking beer on the date of the traffic accident, and that another individual had drugged him by putting valium in his beer. The Appellant indicated that he blacked out, had no recollection of his actions, and awakened from a coma in a [REDACTED] hospital two weeks following the traffic accident. The Appellant testified that he sustained multiple injuries and extensive blood loss in the accident. He stated that his blood-alcohol content was tested after the accident, but that he did not have enough remaining blood to safely undergo a drug test by medical personnel.

The Respondent’s representative indicated that the Appellant could reapply for SNAP benefits if he was not convicted of a drug felony.

While the Appellant testified that he was given valium on the date of the traffic accident, there is no evidence that he was convicted of a drug felony. News and internet accounts, provided as evidence by the Respondent, indicate that the Appellant was convicted of operating a vehicle while impaired but only address the Appellant’s blood alcohol content. Section 802 (6) of the Controlled Substances Act states that “controlled substances” do not include distilled spirits, wine or malt beverages. Therefore, the Respondent’s decision to deny the Appellant’s SNAP application based on a drug felony violation cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Policy states that individuals convicted of a felony offense that occurred after August 22, 1996, involving a controlled substance as defined by Section 802 (6) of the Controlled Substances Act are excluded by law from receiving SNAP benefits if the offense involved the misuse of SNAP benefits, loss of life, or the causing of physical injury.
- 2) Under Section 802 (6) of the Controlled Substances Act, the definition of “controlled substance” does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986
- 3) There is no evidence that the Appellant was convicted of a felony offense involving a “controlled substance” as defined by the Controlled Substances Act.
- 4) The Respondent’s decision to deny the Appellant’s SNAP application cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent’s action to deny the Appellant’s SNAP application based on a drug felony violation.

ENTERED this 21st day of May 2026.

Pamela L. Hinzman
State Hearing Officer