WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

[redacted]

Appellant,

v. **Action Number: 26-BOR-2512**

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 [redacted] 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 September 9, 2026, on an appeal filed with the Board of Review on August 11, 2026.

The matter before the Hearing Officer arises from the July 29, 2026 decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Richard Griffey, Economic Service Supervisor. The Appellant was self-represented. All witnesses were placed under oath and the following documents were admitted into evidence.

Department Exhibits:

D-1 Notice of Decision dated July 29, 2026
D-2 West Virginia Income Maintenance Manual 1.4.18.E
D-3 Case Comments dated August 2026
D-4 Notice of Decision dated August 14, 2026
D-5 Notice of Decision dated August 14, 2026
D-6 Case Comments dated July 16, 2026
D-7 Letter from Appellant dated February 18, 2026
D-8 Case Comments dated July 17, 2026
D-9 West Virginia Income Maintenance Manual 14.2.1.B
D-10 West Virginia Income Maintenance Manual 7.2.23
D-11 Case Comments dated July 23, 2026

D-12 SNAP IPV Disqualification Screen
D-13 West Virginia Income Maintenance Manual 3.2.1.E.3

Appellant's Exhibits:

A-1 Screenshot of Correspondence with John Lopez, Director of Customer Services-DoHS
A-2 Screenshot of Letter dated August 3, 2026
A-3 Miscellaneous Screenshots

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 was a recipient of SNAP benefits.

2) The Appellant's household consisted of herself, her husband and one minor child J.R.

3) The Appellant was required to complete a recertification of SNAP benefits.

4) The Appellant failed to complete the recertification for SNAP benefits.

5) On July 1, 2026, the Appellant completed an application for SNAP benefits. (Exhibit D-6)

6) The Appellant reported a loss of income from her previous employment at [redacted] Inc.

7) The Appellant reported the addition of her minor child, [redacted]

8) The minor child [redacted] was receiving SNAP benefits in her biological father's SNAP case.

9) The Department requested verification of the Appellant's loss of employment.

10) The Appellant failed to provide verification of her loss of employment.

11) On July 29, 2026, the Department issued a Notice of Decision to the Appellant informing her that SNAP benefits would be denied because she failed to provide requested information. (Exhibit D-1)

12) In August 2026, the Appellant completed a West Virginia School Clothing Allowance (SCA) application for both of her minor children.

13) The Appellant reported that she was beginning online schooling with [redacted] Academy beginning the middle of August 2026.

14) On August 12, 2026, the Department received verbal confirmation of the Appellant's loss of employment from the employer.

15) The Department approved the Appellant's SNAP benefits for an assistance group of three, excluding minor child [redacted] because she was receiving SNAP assistance in another household.

16) The Department issued $546.00 in SNAP benefits for August 2026.

17) On August 14, 2026, the Department issued a Notice of Decision to the Appellant informing her that SNAP benefits would be approved in the amount of $785.00 for an assistance group of 3, effective August 1, 2026. (Exhibit D-4)

18) On August 13, 2026, the Department issued an auxiliary SNAP benefit in the amount of $239.00.

19) The Department determined that the Appellant was eligible for SNAP benefits for the month of August but would be considered an ineligible student for September 2026.

20) The Department approved SCA for both minor children.

21) On August 14, 2026, the Department issued a Notice of Decision informing the Appellant that her SNAP benefits would reduce from $785.00 to $546.00 effective September 1, 2026, because the Appellant is considered an ineligible student. (Exhibit D-5)

22) The Appellant is no longer enrolled in online educational classes effective September 1, 2026.

APPLICABLE POLICY

West Virginia Income Maintenance Manual 2.5.1 documents:

> No person may receive SNAP benefits in more than one assistance group (AG) for the same month.

West Virginia Income Maintenance Manual 3.2.1.A.4 documents:

> Natural or adopted children and stepchildren who are under 22 years of age and who live with a parent must be in the same AG as that parent.
>
> There is no required maximum/minimum amount of time the child must spend with a parent for the child to be included in the SNAP AG. If no one is receiving any SNAP benefits for the child, it is assumed that the living arrangements are not questionable, and the child is added to the SNAP AG that wishes to add him. If the child is already listed in another SNAP AG or the other parent wishes to add the

child to his SNAP AG, the parents must agree as to where the child "lives" and, ultimately, to which SNAP AG he is added. Where the child receives the majority of his meals, or the percentage of custody, must not be the determining factor for which parent receives SNAP for the child.

West Virginia Income Maintenance Manual 3.2.1.E documents:

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 one of the exemptions described below.

• An institution of higher education is defined as a business, technical, trade, or vocational school that normally requires a high school diploma or its equivalent for enrollment in the curriculum, or a college or university that offers degree programs whether or not a high school diploma is required for a particular curriculum.

• For this definition, a college includes a junior, community, two-year, or four-year college.

West Virginia Income Maintenance Manual 3.2.1.E.2 regarding Student Exemptions:

A student meets an exemption if he is:

• Under age 18;

• Age 50 or over;

• He is physically or mentally unfit for employment. An individual who meets the definition of disability found in Section 13.15 is considered unfit for employment. Other individuals may be considered unfit for employment if it is verified through a written statement from a licensed medical professional or if it is clearly obvious to the supervisor or senior worker. An individual who meets the definition of unfit for employment, but not disability, should not be coded as disabled in the eligibility system;

• Participating in an on-the-job training program. This does not include the practical experience requirements that may be part of some courses of study, i.e., student teaching, internships, etc.;

A person is considered to be participating in on-the-job training, and thus not considered a student, during the period of time that he is being trained by the employer. He is considered a student, only during the period of time that he is attending classes.

• Employed at least 20 hours per week or 80 hours a month and is paid for the employment. This average must use a 30-day lookback period to determine if the

student meets the 80-hour requirement. The 30-day period should be the same as the minimum lookback period for SNAP income;

Unlike normal work registration, a student cannot substitute wages equivalent to 20 times the minimum hourly wage but must actually work at least 20 hours a week or 80 hours a month, regardless of the amount of wages.

However, self-employed persons must be employed at least 20 hours per week or 80 hours a month and receive weekly earnings at least equal to the federal minimum wage multiplied by 20 hours or monthly earnings equal to the federal minimum wage multiplied by 80 hours.

• Participating in a state or federally financed College Work Study (CWS) program during the regular school year;

Participation means that the student has been approved for CWS during the school term and anticipates actually working during that time.

To qualify for this exemption, the student must be approved for CWS at the time of application.

The exemption begins with the month in which the school term begins or the month CWS is approved, whichever is later. Once begun, the exemption continues until the end of the month in which the school term ends, or it becomes known that the student refused an assignment. The exemption does not continue between school terms when there are breaks of a full month or longer, unless the student is participating in CWS during the break

• Included in a WV WORKS benefit;
• Assigned to or placed in an institution of higher education through one of the following:
• Responsible for the care of a child under the age of six;
• Responsible for the care of an AG member who has reached the age of 6 but is under age 12 and adequate child care is not available to enable the student to attend class and satisfy the 20 hour work requirement or participate in a state or federally financed CWS program during the regular school year; or
• Is a single parent (natural, adoptive, or stepparent), regardless of marital status, and is responsible for an AG member under age 12, regardless of the availability of adequate childcare, and is enrolled full-time, as defined by the institution.
• Paternity does not have to be established to qualify as a father for these purposes. Only when the adults involved do not agree about the paternity of the child is any verification of paternity required.

West Virginia Income Maintenance Manual 14.4.1 documents:

Applicants who voluntarily quit employment without good cause are ineligible for three months, while a penalty is applied to an active client without good cause. See Section 14.2 and 14.5. A voluntary quit has occurred when all of the following conditions exist without good cause:

• The individual left full-time employment of at least 30 hours per week, other than self-employment, of his own volition, or the individual voluntarily reduced his work hours to below 30 hours/week.

• The individual who left employment was not exempt from the work requirement at the time of the quit.

• The individual quit the most recent job of at least 30 hours per week within 60 days prior to the date of application, or anytime thereafter. See Section 14.4.

• Special Situations

An individual who is exempt from the work requirement due to employment loses this exemption immediately upon leaving employment. The client is, therefore, subject to the work requirement penalty even though he was exempt while employed, or while working 30 hours/week.

An individual exempt from the work requirement at the time of the quit due to receipt of, or registration for, Unemployment Compensation Insurance (UCI) benefits is exempt from the Supplemental Nutrition Assistance Program (SNAP) penalty. However, failure to comply with UCI requirements without good cause results in the penalties listed in Section 14.5.

An individual who meets the above conditions and is an employee of federal, state or local government is considered to have voluntarily quit a job without good cause when the individual participates in a strike against such government and is dismissed because of participation in the strike.

West Virginia Income Maintenance Manual 14.4.2 documents in part the actions which are not considered voluntary quits include:

• Termination of self-employment.

• Resignation or termination from the employment at the demand of the employer for any reason, including lay-offs and firings. Even when the reason for firing is failure of the client to follow rules that the employer can reasonably expect to be followed, being fired is not of the client’s own volition and is not, therefore, a voluntary quit.

Code of Federal Regulations § 273.3 regarding residency documents in part:

(a) A household shall live in the State in which it files an application for participation. The State agency may also require a household to file an application for participation in a specified project area (as defined in § 271.2 of this chapter) or office within the State. No individual may participate as a member of more than one household or in more than one project area, in any month, unless an individual is a resident of a shelter for battered women and children as defined in § 271.2 and was a member of a household containing the person who had abused him or her. Residents of shelters for battered women and children shall be handled in accordance with § 273.11(g). The State agency shall not impose any durational residency requirements. The State agency shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility. Nor shall residency require an intent to reside permanently in the State or project area. Persons in a project area solely for vacation purposes shall not be considered residents.

Code of Federal Regulations § 273.5

(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.

(c) The enrollment status of a student shall begin on the first day of the school term of the institution of higher education. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).

(d) The income and resources of an ineligible student shall be handled as outlined in § 273.11(d).

DISCUSSION

On August 11, 2026, the Appellant filed this appeal with the Board of Review as a protest of the denial and calculation of Supplemental Nutritional Assistance Program (SNAP) benefits. The Appellant contests the exclusion of her minor child from the eligibility group determination of her SNAP calculation. The Respondent must prove by a preponderance of the evidence that it correctly calculated SNAP benefits based on the information provided.

The Appellant was a recipient of SNAP benefits for an assistance group of three individuals including her husband and minor child, [redacted] The Appellant was required to complete a SNAP recertification but failed to complete the requirements timely resulting in a termination of SNAP benefits.

The Appellant reapplied for benefits in July 2026 reporting the loss of employment, the addition of minor child [redacted] to the household and her enrollment in higher education courses. The Appellant's application was subsequently denied because she failed to provide verification of her loss of employment.

In August 2026, the Appellant completed an application for the West Virginia School Clothing Allowance (SCA) program. The Respondent approved SCA benefits for both minor children in the household and approved SNAP benefits in the amount of $785.00 for August 2026. In the Respondent's calculation, the minor child [redacted] was excluded from SNAP due to receipt of benefits in her biological father's assistance group. The Appellant previously received $546.00 for the month August and the Respondent issued an auxiliary SNAP benefit for $239.00.

Subsequently, the Respondent removed the Appellant from the SNAP assistance group for September 2026 because she was determined an ineligible student. The minor child, [redacted] remained excluded for September 2026 due to the residency issue. Effective September 1, 2026, the Appellant's SNAP benefits were reduced to $546.00.

The Appellant contends that her minor child should be eligible for benefits in her household because the Respondent acknowledged her residency with the approval of SCA benefits for both of her minor children. The Appellant did not dispute that she previously provided information to the Respondent acknowledging the minor child resided with her biological father in February 2026 (Exhibit D-7) but testified that the child currently resides in her household. The Appellant disputed previously calculated SNAP benefits prior to July 2026 but failed to provide specific testimony to support her argument. The Appellant provided no argument to her exclusion from the SNAP benefit in September 2026 due to student ineligibility, only citing that she is no longer enrolled in the higher education classes due to stress and concern over her SNAP benefit amount. Both parties agreed to complete the necessary requirements to verify the information regarding the Appellant's student enrollment and to establish her ongoing participation in SNAP.

Policy regulates that no individual may receive SNAP benefits in more than one assistance group. Furthermore, policy provides that there is no designated amount of time a child must spend with a parent for the child to be included in an assistance group. The policy requires that if a child is already listed in another SNAP assistance group or the other parent wishes to add the child to their assistance group, the parents must agree as to where the child "lives" and ultimately, to which assistance group the child is added. Based on testimony provided during the hearing, there was no agreement provided to Respondent from the Appellant or [redacted] biological father to determine her residency for SNAP participation. In absence of such agreement, the Respondent was correct exclude [redacted] from the Appellant's calculation of SNAP benefits.

Policy mandates that students enrolled at an institute of higher education are ineligible to participate in SNAP unless otherwise exempt. Prior to her exclusion from SNAP benefits, the

Appellant failed to provide any documentation or information to establish an exemption for student ineligibility. Because the Appellant was enrolled in an institute of higher education and failed to establish an exemption, the Respondent was correct to exclude the Appellant from SNAP effective September 2026.

Based on information provided during the hearing process, the Appellant's SNAP calculation is affirmed and the Respondent correctly excluded the minor child based on residency requirements and excluded the Appellant due to student eligibility.

CONCLUSIONS OF LAW

1) Policy requires that no person may receive SNAP benefits in more than one assistance group in the same month.

2) In instances of joint custody, the parents must agree as to where the child "lives" and ultimately to which SNAP assistance group the child is added.

3) In February 2026, the Appellant established that the minor child resided with her biological father and was included in his assistance group.

4) Prior to the August 2026 SNAP eligibility determination, both parents failed to provide any updated information to establish the residency of the child in her mother's household; therefore, the Respondent's decision to exclude the minor's child residency with the Appellant is affirmed.

5) Policy requires that a student enrolled at institute of higher education is ineligible to participate in SNAP unless otherwise exempt.

6) At the time of the determination of SNAP eligibility, the information provided to the Respondent established that the Appellant was enrolled in a higher education program effective September 2026. Information failed to establish any exemption to student eligibility. Therefore, the Respondent was correct in exclude the Appellant from participation in SNAP effective September 2026.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's calculation of SNAP benefits for Appellant.

ENTERED this _____ day of September 2026 .

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Eric L. Phillips
Certified State Hearing Officer