



February 18, 2025

[REDACTED]

RE: [REDACTED] v. WVDOHS
ACTION NO.: 24-BOR-3912

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Tammy Lucas, Department Representative

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

██████████,

Appellant,

v.

Action Number: 24-BOR-3912

**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 February 6, 2025, upon a timely appeal filed on December 12, 2024.

The matter before the Hearing Officer arises from the December 12, 2024 decision by the Respondent to deny the Appellant's application for SNAP benefits due to student policy.

At the hearing, the Respondent appeared by Tammy Lucas. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

D-1	Case summary
D-2*	(Not entered)
D-3	Notice of decision, dated December 12, 2024 (excerpt)
D-4	Hearing request form, date-stamped December 12, 2024

D-5 Case comments entries – November 4, 2024, through January 22, 2025 – from the Respondent’s data system regarding the Appellant’s case

D-6 West Virginia Income Maintenance Manual excerpts

Appellant’s Exhibits:

None

* Exhibit D-2 was a copy of the Hearing Officer’s scheduling order and was excluded as totally irrelevant to the Department’s case.

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 completed a SNAP review form on October 22, 2024. (Exhibit D-5)
- 3) The Respondent called the Appellant on November 6, 2024, to conduct the interview in conjunction with the Appellant’s SNAP review form. (Exhibit D-5)
- 4) The Appellant is a student as defined in SNAP policy.
- 5) The Respondent requested employment verification to determine if the Appellant met one (1) of the 11 exemptions to student policy. (Exhibit D-5)
- 6) The Respondent did not provide a copy of the verification checklist given to the Appellant at the hearing.
- 7) The Respondent determined that the Appellant did not meet one (1) of the 11 exemptions to student policy.
- 8) The Respondent issued at least three (3) pages of a December 12, 2024 (Exhibit D-3) notice to the Appellant denying her SNAP benefits because the Appellant “is an ineligible student.”
- 9) The Appellant has Sjögren’s syndrome and suffers from plantar fasciitis.
- 10) The Appellant was advised by a medical professional that it was recommended that she not work through March 17, 2025.

- 11) The Appellant provided medical documentation regarding her work limitations to address SNAP ABAWD policy and SNAP work registration policy. (Exhibit D-5)
- 12) The Respondent did not provide the Appellant's established medical documentation at the hearing.
- 13) The case narrative (Exhibit D-5) from the Respondent's data system regarding the Appellant's case did not reveal any exploration of the other exemptions to SNAP student policy.
- 14) The Appellant is unfit for work and is exempt from SNAP student policy.
- 15) The Respondent's denial of SNAP benefits to the Appellant cannot be affirmed.

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 3.2.1.E defines a student as:

...an individual who is enrolled at least half time in a recognized school, training program or institute of higher education...

West Virginia Income Maintenance Manual § 3.2.1.E.2 lists 11 exemptions to the student policy, and the third exemption states, in pertinent part (emphasis added):

...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 **obvious to the worker**. An individual who meets the definition of unfit for employment, but not disability, should not be coded as disabled in the eligibility system...

West Virginia Income Maintenance Manual §13.15 details two standards for work ability under SNAP policy – disability and fitness for employment – and provides the related SNAP policies for which those standards apply. At §13.15.1, this policy lists the related SNAP policies that require a disability determination, and student policy is not listed. At §13.15.3, policy provides, in part:

13.15.3 ESTABLISHING A CLIENT AS UNFIT FOR EMPLOYMENT

This policy applies only to student policy, SNAP work requirements, and Able-Bodied Adults Without Dependents (ABAWD) policy.

- A client who meets the definition of disability is considered to be unfit for employment. No other verification is needed.

- A client who does not meet the definition of disability should be evaluated for fitness for employment. If it is obvious to the worker that the client is unfit for employment, then no further verification is needed, but thorough case comments must be entered explaining why the client is obviously unfit for employment.
- A client who does not meet the definition of disability and is not obviously unfit for employment will be requested to provide written verification from a licensed medical professional that the client is unfit for employment...

Code of Federal Regulations 7 CFR §273.5(b) lists the same 11 exemptions to SNAP student policy, and at 7 CFR §273.5(b)(2) provides:

(2) Be physically or mentally unfit;

Code of Federal Regulations 7 CFR §273.2(f)(1)(xi) provides:

(xi) *Students*. 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

The Appellant is contesting the Respondent's denial of SNAP benefits. The Respondent denied SNAP benefits to the Appellant based on student policy, and must show, by a preponderance of the evidence, that it correctly applied this policy in the Appellant's case and properly notified the Appellant of its action.

The Appellant is defined as a student according to SNAP policy. The Appellant was a recipient of SNAP and was required to complete reviews of eligibility. In the most recent review, the Respondent witness claimed that verification was required of the Appellant to show her working and rent arrangement. The Respondent did not provide the verification checklist corresponding to this action. The Respondent did not provide the documentation it received from the Appellant at the hearing, including the landlord statement that was the basis of its conclusion. Testimony at the hearing established that the Appellant resides with her landlords and works in-kind in lieu of rent. One of the Appellant's landlords, [REDACTED], testified to this fact. The Respondent concluded that this arrangement means that the Appellant does not meet an employment exemption to SNAP student policy. The Respondent provided an excerpt of its notice regarding this conclusion. Although it is more likely than not that the Respondent's notice is adequate, its incomplete presentation at the hearing leaves open questions as to what may or may not be on the excluded pages and reduces the reliability of the document. However, the notification issue is secondary to the incomplete assessment of student policy exemptions by the Respondent.

Student policy for SNAP, both in the West Virginia Income Maintenance Manual and in the Code of Federal Regulations, provides many exemptions and the Respondent established that it considered only the employment exemption. During the hearing, the Appellant provided a document that was not entered into evidence at the time because of its apparent irrelevance (a date outside the timeframe of Respondent actions) and because the Appellant had not properly followed evidence submission guidelines for the hearing. Review of the limited documents provided by the Respondent shows that the Appellant provided documentation regarding her fitness for employment to address the policy requirements for other aspects of SNAP eligibility. (i.e., exemption from SNAP ABAWD policy and SNAP work registration requirements) The Respondent's representative offered no testimony regarding consideration of other exemptions, or any explanation for the case comments provided (Exhibit D-5) detailing medical documentation accepted for other SNAP policy areas that was not considered for SNAP student policy exemption.

The Appellant testified regarding her fitness for employment and stated that she has Sjögren's syndrome and suffers from plantar fasciitis. The Appellant explained that she has difficulty working because she is unable to stand for long periods of time. [REDACTED] testified that she is aware of the Appellant's disability and provides accommodations for it in their in-kind rent arrangement. SNAP policy defines two thresholds regarding employment capacity (disability and fitness for employment). The greater threshold, disability, automatically establishes the lesser one. The lesser one, fitness for employment, cannot solely establish the greater standard. The Code of Federal Regulations simply states that an exemption from student policy is met when an individual is "physically or mentally unfit." The West Virginia Income Maintenance Manual expands on this, noting both the expectations of the Respondent in the process as well as the relaxed standard relative to a formal establishment of disability. The Respondent was expected to evaluate the Appellant's fitness for employment, which it did not do. Worker discretion is allowed to establish an individual as unfit for employment if it is "obvious" to the worker, without further documentation. Medical documentation can be required if it is not "obvious" to the worker. Medical documentation was provided, although not admitted, at the hearing and discussed with no rebuttal or mention from the Respondent's representative.

The Appellant and [REDACTED] were placed under oath, and their testimony regarding the Appellant's disability was thorough and convincing. The Respondent's representative simply did not address any issues with this potential exemption, why it was not addressed, or why it *was* addressed but not noted in case comments. The reliable testimony and evidence provided at the hearing clearly show that the Appellant is exempt from SNAP student policy because she is unfit for employment. Because the Respondent did not consider this exemption, their denial of SNAP benefits to the Appellant cannot be affirmed. The Respondent must approve SNAP benefits from the effective date of December 1, 2024. It is unclear from the record if the Respondent continued SNAP benefits through the hearing process. The Respondent must show that it either continued SNAP benefits from December 1, 2024, or retroactively issue those benefits.

CONCLUSIONS OF LAW

- 1) Because the Appellant is a student as defined in SNAP policy, she must meet an exemption to participate in the program.
- 2) Because the Appellant is unfit for employment, she has established an exemption to participate in SNAP.
- 3) Because the Appellant is a student with an established exemption to SNAP student policy, the Appellant is eligible for SNAP and the Respondent's denial of SNAP cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's denial of SNAP benefits due to student policy. The Respondent must approve SNAP benefits to the Appellant and issue retroactive benefits from December 1, 2024 (or show that SNAP benefits were continued through the hearing process during this timeframe).

ENTERED this _____ day of February 2025.

Todd Thornton
State Hearing Officer