



Rhode Island Executive Office of Health and Human Services  
Appeals Office, 57 Howard Ave., LP Building, 2<sup>nd</sup> floor, Cranston, RI 02920  
phone: 401.462.2132 fax: 401.462.0458

May 15, 2015

Docket # 15-698  
Hearing Date: April 28, 2015



### **ADMINISTRATIVE HEARING DECISION**

The Administrative Hearing that you requested has been decided against you. During the course of the proceeding, the following issue(s) and Agency regulation(s) were the matters before the hearing:

#### **THE DHS POLICY MANUAL: Supplemental Nutrition Assistance Program SECTION: 1004.35 Students**

The facts of your case, the Agency regulation(s), and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the appellant), and Agency representatives: Eladio Ramos, Michaela Miller, Marianne Nerbonne, William O'Donnell, Denise Tatro, and the Corrective Action Unit.

Present at the hearing were: You (the appellant), and Agency representative Michaela Miller.

**ISSUE:** Is the appellant a student ineligible for the Supplemental Nutrition Assistance Program (SNAP) as of February 28, 2015?

#### **DHS Rules and Regulations:**

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Rules and Regulation

#### **APPEAL RIGHTS:**

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

**DISCUSSION OF THE EVIDENCE:****The Agency representative testified:**

- The appellant's SNAP benefits were closed when he informed an Agency worker during an interview that he was a student at one of the State colleges and was not working.
- The appellant was informed that per SNAP policy, anyone who is a post-secondary student would need to work a minimum of 20 hours to be eligible for SNAP.
- If unemployment were to send him to training, that would qualify for a student exemption.

**The appellant testified:**

- After receiving SNAP benefits for six months, the Agency asked him to bring in some documents and specifically asked him for several recent paychecks.
- He told the Agency that he had started going to college part-time and was on administrative leave from his job.
- He had previously been working approximately 20 hours a week but had been placed on administrative leave about a month prior to his interview with the Agency.
- He did not go on administrative leave in order to go to school, but since he had been planning on going to school, he decided it was a good time to go.
- The Agency informed him that there were rules and guideline that they had to follow and as long as he was a student, they had to close his SNAP case.
- He filed an appeal because he thought that the Appeals Officer could consider that he has financial burdens that leave him with no food and/or that he needs food on the table in order to continue going to school.
- He is 35 years old.
- He is fit to work and may return to work around the middle of June.

- His college classes end on May 6, 2015 but he does plan on returning in the Fall.
- He has children but they are not living in this country. He is currently going through the process with immigration to bring them here and they may be here in four to five months.
- He went to Unemployment and took an aptitude test and he may go to a CNA training program, starting in the middle of May, if Unemployment will pay for it.

#### **FINDINGS OF FACT:**

- The appellant had been receiving a monthly SNAP benefit of \$16.00.
- The appellant was informed per a notice dated January 26, 2015 that his Food Stamp allotment of \$16.00 would be closed as of February 28, 2015 because he was an ineligible student.
- The appellant filed a timely request for hearing received by the Agency on March 20, 2015.
- An Administrative Hearing was convened on April 28, 2015.
- The record of hearing was reopened for further development/submission of additional evidence.
- No additional evidence was submitted prior to a May 11, 2015 deadline.
- The appellant is 35 years old and lives alone.
- At the time of his SNAP closure, the appellant was a student at a local college, enrolled at least half-time.
- At time of his SNAP closure, the appellant was fit to work but was not working.
- At the time of his SNAP closure, the appellant was not receiving RIW benefits.
- At the time of his SNAP closure, the appellant was not responsible for the care of any children.

- At the time of his SNAP closure, the appellant was not participating in any state or federally funded work study program.
- At the time of his SNAP closure, the appellant had not been assigned to or placed in the college through the Workforce Independence Act, a SNAP employment or training program, a program under section 236 of the Trade Act of 1974, or a state or local government employment and training program determined to be appropriate by FNS.

### **CONCLUSION:**

The issue to be decided is whether the appellant is a student, ineligible for the Supplemental Nutrition Assistance Program (SNAP) as of February 28, 2015.

The Agency argues that the appellant's SNAP benefits were closed because he is a college student, not working a minimum of 20 hours a week. The appellant argues that he is only a part-time student on administrative leave from his job and that due to financial burdens, he is without food at times and he needs food in order to continue going to school.

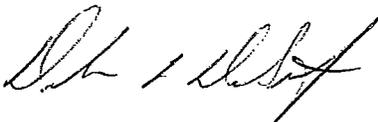
A review of SNAP regulations finds that certain students are ineligible to receive SNAP benefits. Specifically, students aged 18 through 49 who are enrolled at least half-time in an institution of higher learning and are physically and mentally fit for employment are ineligible for SNAP benefits unless they meet one of the following criteria: are receiving RIW assistance, have certain responsibilities relative to the care of a child, are employed and paid for an average of 20 hours per week, participate in a state or federally funded work-study program during the regular school year, or were assigned to or placed in the institution of higher learning through the Workforce Independence Act (WIA) program, a SNAP employment or training program, a program under section 236 of the Trade Act of 1974, or a state or local government employment and training program, as determined to be appropriate by FNS.

There is no dispute that the appellant was enrolled part-time in an institution of higher learning when his SNAP benefits closed and he continues to be enrolled. The appellant testifies that he is 35 years old and is fit for employment, but has been on administrative leave from his job since approximately one to two months prior to the closure of his SNAP benefits. Upon questioning, he confirms that lives alone, is not currently responsible for the care of any children, is not participating in any state or federally funded work study program, and he gave no indication that he was assigned to or placed in the college through any of the previously mentioned programs.

Further review of the record finds that the Agency failed to provide sufficient testimony or evidence at hearing to establish that they reviewed the appellant's part-time college status to determine if he was enrolled in college at least half-time as required in the cited SNAP regulation. While the appellant argues that he is only a part-time student, he failed to define part-time or offer any explanation as to the number of classes he is enrolled in and/or the number of hours he attends. As neither party provided sufficient evidence to establish that the appellant was enrolled in college at least half-time, the record of hearing was reopened to allow for the submission of additional information/documentation. The appellant was clearly informed that in the absence of verification that he was not enrolled at least half-time, his testimony that he is enrolled part-time would be considered evidence that he was enrolled at least half-time. No additional evidence was submitted post-hearing by either party.

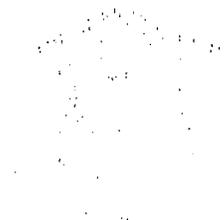
In conclusion, the appellant is a student enrolled at least half-time in an institution of higher education who fails to meet at least one of the requirements/criteria needed to be eligible for participation in SNAP as a student.

After a careful review of the Agency's rules and regulations, as well as the evidence and testimony given, this Appeals Officer finds that the appellant is a student, ineligible for the Supplemental Nutrition Assistance Program (SNAP) as of February 28, 2015. The appellant's request for relief is denied.



Debra L. DeStefano  
Appeals Officer

**APPENDIX**



## **SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) (Formerly called the Food Stamp Program)**

### **1004 NON-FINANCIAL ELIGIBILITY PROVISIONS**

#### **1004.35 (7 CFR 273.5) STUDENTS**

REV:04/1993

Any person who is (1) aged 18 through 49; (2) physically and mentally fit; and, (3) enrolled at least half-time in an institution of higher education shall be ineligible to participate in the SNAP unless such person complies with the eligibility requirements described in 1004.35.05.

"Institution of higher education" means any institution which normally requires a high school diploma or equivalency for enrollment.

This rule does not apply to persons under 18 or over 50, persons physically or mentally unfit for employment, persons attending high school, persons participating in on-the-job training programs, persons not attending school at least half-time, or to persons enrolled full-time in schools and training programs which are not institutions of higher education. Such persons are certified in accordance with Section 1014.20.

If inability to work due to mental or physical unfitness is claimed, verification is required. Receipt of temporary or permanent disability benefits issued by governmental or private sources is sufficient verification. These benefits include, but are not limited to, TDI, SSI, RSDI disability benefits, and Workers' Compensation. For an individual who does not receive any such benefits, a statement from a physician or licensed or certified psychologist is sufficient verification.

#### **1004.35.05 (7 CFR 273.5) Eligibility Requirements**

REV:08/2013

In order to be eligible to participate in the Supplemental Nutrition Assistance Program, any student (as defined in 1004.35) must meet at least one of the following criteria:

1. Under age 18 or age 50 or older;
2. Not physically or mentally fit;
3. Employed and paid for an average of twenty (20) hours per week;
4. Receiving RIW;
5. Responsible for the care of a child under age 6;
6. Enrolled full-time in an institution of higher

Education and is a single parent with responsibility for the care of a dependent child under age 12 (regardless of the availability of child care);

7. Responsible for the care of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available to enable the individual to attend class and work an average of twenty (20) hours per week or participate in a state or federally financed work study program;
8. Participating in a state or federally funded work study program (funded under Title IV-C) during the regular school year;
9. Assigned to or placed in an institution of higher learning through:
  - a. the Workforce Independence Act (WIA) program,
  - b. a SNAP employment or training program,
  - c. a program under section 236 of the Trade Act of 1974, or
  - d. a state or local government employment and training program, as determined to be appropriate by FNS.

### **NOTICE OF APPELLATE RIGHTS**

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.