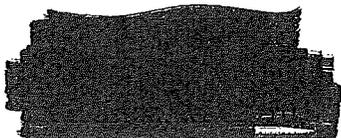


STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
APPEALS OFFICE
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Cranston, Rhode Island 02920
(401) 462-2132/Fax# (401) 462-0458
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July 9, 2014

Date of Hearing: 06-16-14
Docket # 14-855



ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided partially in your favor. During the course of the proceeding, the following issue(s) and Agency policy reference(s) were the matters before the hearing:

THE DHS POLICY MANUAL: Food Stamps
SECTION: 1004.35 STUDENTS

The facts of your case, the Agency policy, 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) Agency representatives: Robin Barradas, Vanya Rebollo, Betty Perez, and the Corrective Action Unit.

Present at the hearing were: You and Agency representative: Vanya Rebollo.

ISSUE: Is the appellant ineligible for Food Stamps because she is over 18 and not working twenty hours?

DHS POLICIES: Please see the attached **Appendix** for pertinent excerpts from the Department of Human Services Policy Manual.

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

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

- The Agency received an interim report from the appellant in March 2014.
- The appellant reported her spouse's wages and that she was going to school part-time.
- The appellant is not working at least twenty hours per week.
- The appellant was removed from the Snap household an ineligible student.
- The appellant's spouse works part-time so he should be available to watch the child while the mother works and goes to school.
- The Agency did not find the appellant to be exempt from the work Policy

The Appellant Testified:

- The appellant came into the office and explained to a social worker that she believes she is an eligible student.
- She told the social worker that her husband works second shift so she does not have childcare for her daughter so she cannot work at night.
- She is in Rhode Island College full time in the daytime.
- She is participating in an internship. She works at the RI Coalition of Human Rights.
- She works between twenty-five to thirty hours per week.

FINDINGS OF FACT:

- The appellant sent in an interim report for SNAP in March 2014.
 - She was removed from the household as an ineligible student.
 - The Agency did not count her as an eligible household member.
 - The Agency sent a notice on March 24, 2014 advising her of this.
 - The appellant did file a timely appeal received in the Providence DHS Office on May 28, 2014.
 - The hearing was held June 16, 2014.
-
- During the course of the hearing it was agreed to by all parties that the record of hearing would remain open two weeks for the submittal of further evidence.
 - Evidence was received while the record remained open.

CONCLUSION:

The issue to be decided is whether the appellant should be counted as an eligible household member.

A review of Agency Food Stamp Policy reveals that 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 Food Stamp Program 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. A student is ineligible if s/he does not meet the criteria described in section 1002.30. In either case, the otherwise eligible household members, if any, may be certified and the income and resources of the student is treated in accordance with either Section 1016.20.05 or Section 1016.20.10.

In this case the Agency testified that the appellant was not working at least twenty hours while enrolled in higher education.

The appellant argues that she was working at least twenty hours per week.

The appellant advised the Agency at the time of hearing that she met the criteria.

The record of hearing was held open to allow the appellant to document that she was working at least twenty hours per week. The appellant did provide documentation that as of June 1, 2014 she is working at least twenty hours per week; however in the spring semester she could not document twenty hours of work per week she only averaged 16-20 per week.

In summary the appellant is attending a school fulltime that meets the definition of higher education and she is now working twenty hours per week; therefore the Agency determined her to be eligible as of June 1, 2014. She is not eligible prior to June 1, 2014 because she could not document that she worked at least twenty hours a week.

After careful review of Federal and Agency Policy and the evidence and testimony presented this Appeals Officer finds that the appellant met the criteria for exemption as of June 1, 2014; therefore the appellant's request for relief is granted.

Action for Agency: The Agency is to re-instate the appellant's benefits as of June 1, 2014.

Geralyn B. Stanford
Appeals Officer