

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

M [REDACTED] W [REDACTED],
Petitioner,

v.

DHS, DIVISION OF FAMILY AND
CHILDREN SERVICES,
Respondent.

Docket No.: [REDACTED]
[REDACTED]-OSAH-DFCS-FSP-31-Howells

Agency Reference No.: [REDACTED]



FINAL DECISION

Petitioner requested a hearing to contest the denial of his food stamp application by the Division of Family and Children Services (“Respondent”). The hearing in this matter was conducted pursuant to 7 C.F.R. § 273.15, on March 14, 2023, before the undersigned administrative law judge. Petitioner appeared and was represented by his father M [REDACTED] W [REDACTED]. Amy Williams appeared on behalf of Respondent. For the reasons stated below, Respondent’s denial of Petitioner’s Food Stamp application is **AFFIRMED**.

Findings of Fact

1.

Petitioner’s application dated January 11, 2023, was denied by Respondent on January 12, 2023, because he did not meet the student eligibility requirement of working an average of twenty (20) hours per week and he did not submit the Student Aid Report (“SAR”) showing no financial aid from his parents. Petitioner is 19 years old. (Testimony of Amy Williams.)

2.

Petitioner attends [REDACTED]. He lives at home with his parents and commutes to school.¹ (Testimony of M [REDACTED] W [REDACTED].)

¹ It appears that Petitioner may have indicated on his application that he lives on campus.

3.

Petitioner's father testified that while Petitioner does live at home, he is technically an adult. Petitioner's father also testified that Petitioner needs food stamps. (Testimony of M [REDACTED] W [REDACTED])

Conclusions of Law

1.

Because this matter concerns the denial of an application for benefits, Petitioner bears the burden of proof. Ga. Comp. R. & Regs. 616-1-2-.07(1)(d). The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).

2.

The Supplemental Nutrition Assistance Program ("SNAP") (formerly known as the Food Stamp Program) is governed by the Food and Nutrition Act of 2008. 7 U.S.C. § 2011 through 7 U.S.C. § 2036d; 7 C.F.R. § 271.1 through 7 C.F.R. § 285.5. Respondent has issued guidelines for the Food Stamp Program in its Economic Support Services Manual, Volume III, of the Georgia Department of Human Services (hereinafter Food Stamp Manual).²

3.

Students enrolled at least half-time in an institution of higher education are ineligible to participate in the Food Stamp Program, unless they meet one of the specified exemptions.³ 7 C.F.R. § 273.5(a); Food Stamp Manual, 3245-2. Thus, to be eligible for the program, a student must meet one of the following exemptions:

² The Food Stamp Manual can be found online at: odis.dhs.ga.gov/ChooseCategory.aspx?cid=1035. At that web address, the Food Stamp Manual can be accessed by clicking the link "[MAN3420](#)."

³ Institutions of higher education include business, technical, trade, or vocational schools that require a high school diploma or an equivalency certificate for enrollment. 7 C.F.R. § 273.5(a). Institutions of higher education also include colleges or universities, regardless of whether a diploma is required. Id.

- (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 . . . ;
- (6) Be participating in a State or federally financed work study program during the regular school year . . . ;
- (7) Be participating in an on-the-job training program . . . ;
- (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 (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 . . . and be responsible for the care of a dependent child under age 12 . . . ;
- (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)

7 C.F.R. § 273.5(b); Food Stamp Manual, 3245-2, 3245-3.

4.

In the Consolidated Appropriations Act 2021, 116 P.L. 260, the federal government added two additional temporary exemptions for students. Pertinent here is the Expected Family Contribution Exemption, which makes students enrolled at least half time in an institution of higher

education potentially eligible for benefits if they present an SAR showing an Expected Family Contribution of \$0 for the current academic year. 116 P.L. 260 at Div. N, Title VII, Subtitle A, Chap. 1, Sec. 702(e)(1)(A)(ii); see also Food Stamp Manual, 3245-2, -3. This temporary exemption is set to expire 30 days after the federal government lifts the designation of the nationwide COVID-19 public health emergency.⁴ Sec. 702(e)(2); see also Supplemental Nutrition Assistance Program (SNAP), <https://www.fns.usda.gov/snap/students> (follow “Covid-19 Temporary Update” link, then “How long will these temporary exemptions be in effect?”) (last visited Mar. 28, 2023).

5.

As noted above, students enrolled at least half-time are not eligible to receive Food Stamps, unless they meet one of the exceptions, such as being employed for a minimum of twenty hours per week and being paid for that employment, or the temporary exemption related to a documented Expected Family Contribution of \$0. Petitioner failed to prove that he met any of the exceptions governing student eligibility. Accordingly, Respondent appropriately denied his January 11, 2023 application for Food Stamps.

6.

Furthermore, because Petitioner is 19 years old and lives at home, he is not entitled to be considered a separate household from his parents. 7 C.F.R § 273.1(b)(1)(ii); Food Stamp Manual, 3205-2. Therefore, he would be required to be included in his parents’ household and all income from the household would be considered.⁵ 7 C.F.R. §§ 279.9(b), 279.10(c).

⁴ Currently, it appears that the federal government intends to lift the public health emergency designation on or about May 11, 2023, which would make the deadline to use this exemption for new applications June 9, 2023. www.fns.usda.gov/snap/students

⁵ Petitioner presented no evidence regarding the eligibility of his parent’s household.

Decision

In accordance with the foregoing Findings of Fact and Conclusions of Law, Respondent's decision to deny Petitioner's application for Food Stamp benefits is **AFFIRMED**.

SO ORDERED, this 28th day of March, 2023.

Stephanie M. Howells

Stephanie M. Howells
Administrative Law Judge

