



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
4190 Washington Street, West  
Charleston, West Virginia 25313

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

May 6, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-1597

Dear Ms. [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 Health and Human Resources. 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,

Donna L. Toler  
State Hearing Officer  
Member, State Board of Review

Encl: Claimant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Christina Brown, Family Support Specialist

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BOARD OF REVIEW**

██████████,

**Claimant,**

**v.**

**Action No: 15-BOR-1597**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**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 West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing convened on April 28, 2015, on an appeal filed March 13, 2015.

The matter before the Hearing Officer arises from the December 26, 2014 decision by the Respondent to terminate the Claimant's Supplemental Nutrition Assistance Program (SNAP) and WV WORKS/WV EAP benefits.

At the hearing, the Respondent appeared by Christina Brown, Family Support Specialist. Appearing as witnesses for the Respondent were Tammie Drumheiler and Christina Saunders, Front End Fraud Unit Investigators. The Claimant appeared *pro se*. Appearing as a witness for the Claimant was Elijah Harper, Economic Service Supervisor. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Returned mail from DHHR ██████████ to Claimant
- D-2 Case Comments computer screen print dated September 20, 2014 through December 5, 2014
- D-3 Verification Checklist from DHHR ██████████ to Claimant dated December 8, 2014
- D-4 Returned mail (2) from DHHR ██████████ to Claimant
- D-5 Case Comments computer screen print dated December 8, 2014 through February 4, 2015
- D-6 ██████████ Housing Authority Statement of Account for Claimant's December 2014 rent
- D-7 E-mail from Elijah Harper to ██████████ and ██████████ dated January 2, 2015

- D-8 Correspondence from DHHR [REDACTED] to Claimant dated December 26, 2014
- D-9 West Virginia Income Maintenance Manual §4.1
- D-10 West Virginia Income Maintenance Manual §9.21
- D-11 West Virginia Income Maintenance Manual §15.1
- D-12 West Virginia Income Maintenance Manual §§1.25, Chapter 10, Appendix B, 10.4, 2.1, 6.2, 2.2 and 2.17
- D-11 Case Comments computer screen print dated February 5, 2015 through February 19, 2015
- D-12 Request for Assistance, undated and Correspondence from DHHR [REDACTED] to Claimant dated February 13, 2015
- D-13 Case Comments computer screen print dated February 19, 2015 through March 20, 2015
- D-14 Individual Comments dated November 18, 2014 through March 26, 2015
- D-15 Correspondence from DHHR [REDACTED] to Claimant dated February 20, 2015
- D-16 Correspondence from DHHR [REDACTED] to the Claimant dated February 20, 2015
- D-17 Case Benefit Summary dated June 2012 through April 2015
- D-18 Case Benefit Summary dated June 2012 through April 2015
- D-19 Financial Information computer screen print dated April 2014 through May 2015
- D-20 Move-Out Agreement notarized on November 14, 2014

**Claimant's Exhibits:**

None

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 Claimant was a recipient and participant in the Supplemental Nutrition Assistance Program (SNAP) and the WV WORKS cash assistance program. At the time of application the Claimant reported a physical and mailing address of [REDACTED] in [REDACTED] West Virginia.
- 2) Correspondence mailed to the Claimant at the aforementioned address on November 10, 2014 and November 14, 2014, was returned from the United States Postal Service (USPS) marked "moved left no address, unable to forward, return to sender". (Exhibit D-1)
- 3) On November 18, 2014, a Department worker documented in Case Comments, a log of worker action in a case, that a voicemail message was left for the Claimant to return a call regarding the returned mail. (Exhibit D-2).

- 4) On December 8, 2014, notice was mailed for the Claimant to provide “proof of your West Virginia household address”. Verification of the address was to be provided to the Department no later than December 15, 2015 (a period of seven (7) days). The notice advised that failure to provide the requested information by the due date would result in the termination of the Claimant’s WV WORKS, SNAP and AFDC Medicaid benefits. (Exhibits D-2 and D-3).
- 5) Correspondence mailed to the Claimant on December 16, 2014, was returned from the USPS marked “moved left no address, unable to forward, return to sender”. (Exhibit D-4)
- 6) On December 26, 2014, correspondence was mailed to the Claimant advising her that her SNAP and WV WORKS benefits were being terminated effective January 31, 2015. The notice indicated that WV WORKS was being terminated because the Claimant “did not turn in all requested information”. There was no reason provided for the termination of the Claimant’s SNAP benefits on the notice. (Exhibit D-8)
- 7) On December 30, 2014, the Claimant provided a copy of her [REDACTED] Housing Authority Statement, verifying she was a tenant required to pay rent and a monthly cable fee for the month of December 2014, at the [REDACTED] address. (Exhibit D-6) A Move-Out Agreement was provided by the Department’s witness verifying that the Claimant had agreed to vacate her residence at [REDACTED] by December 31, 2014. (Exhibit D-21)
- 8) On December 8, 2014, the Claimant contacted the Department’s Customer Service Center to check on benefits she did not receive via mail. (Exhibit D-2)
- 9) On February 13, 2015, the Claimant reapplied for SNAP benefits, at which time she reported that she was “homeless and is staying from house to house”. The Claimant reported that she spent most of the time at her father’s home at [REDACTED], West Virginia, but requested her mail be sent to her boyfriend’s house at [REDACTED] in [REDACTED] West Virginia. Case comments indicated that the Claimant’s mailing address and living arrangement was verified. (Exhibits D-11 and D-12)
- 10) The Claimant acknowledged that she failed to provide verification of her physical address by the due date indicated on the verification checklist, but that she did return the information on December 30, 2014, prior to the termination of her benefits. The Claimant reported that she had issues receiving her mail at her physical address and later began using her boyfriend’s mailing address because she was not receiving all of her mail. The Claimant testified that after moving out of her home in [REDACTED] she moved into her father’s house sometime in the month of January 2015. The Claimant reported that she notified the Department of her change in address in the first part of January 2015.

- 11) The Department's representative acknowledged that if verification of requested information is provided to the Department prior to the effective date of the negative action, benefits are to be restored.

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual §2.1, defines loss of contact. Loss of contact occurs when the client moves and does not notify the Department. If the client's mail is returned from the United States Postal Service (USPS), the worker is required to send a verification checklist. If the information requested on the checklist is not returned by the due date or the request for information is returned as undeliverable, the case is closed.

West Virginia Income Maintenance Manual §2.2, lists sources of information which are determined to be verified upon receipt and includes information received from Housing and Urban Development (HUD). Information requested by the Department which is returned after the established deadline, but prior to the effective date, is pro-rated from the date of return.

West Virginia Income Maintenance Manual §6.3.A, requires the Department notify the client, in writing, when additional information or verification is needed. The client must be provided no less than ten (10) days from the date the request is completed to return the requested information.

West Virginia Income Maintenance Manual §6.3.B.a, requires that notices of adverse action for SNAP benefits include the fact the SNAP Assistance Group is closed or decreased, the date the action becomes effective, the reason for the action, the Manual section on which the decision is based and any other action that is taken.

### **DISCUSSION**

Although several issues were introduced prior to the onset of this hearing, the issue before the Board of Review is that the Claimant's SNAP and WV WORKS benefits were terminated effective January 31, 2015, as a result of the Claimant's failure to provide verification of her address on or before December 15, 2015.

Notices mailed to the Claimant failed to provide any reason for the termination of her SNAP benefits and indicated that WV WORKS benefits were terminated because she failed to verify her residential address. It should be noted that policy requires the Department to provide the Claimant at least ten (10) days to provide verification of requested information, but failed to do so. The verification checklist mailed to the Claimant on December 8, 2014, and due on December 15, 2014, only provided the Claimant seven (7) days to return the requested information. The verification checklist issued by the Department failed to provide the Claimant with adequate time to provide the requested information.

The Claimant admitted that she failed to provide the information by the December 15, 2014 deadline. The Claimant stated that she had problems with her mail and did not know why the postal service returned her mail and marked it undeliverable. The Claimant's argument was

supported by the provision of information from Housing Urban Development (HUD) that the Claimant resided at the reported address through the month of December 2014.

Evidence established that although policy granted the Department the right to terminate the Claimant's benefits for loss of contact, policy required the benefits be reinstated, because the Claimant returned the information on December 30, 2014, prior to the adverse action effective date of February 1, 2015. Policy requires that verifications returned prior to the implementation of the negative action be reinstated with no loss of benefits.

Case comments entered into the Claimant's case record also indicated that the Claimant verified her January 2015 change of address shortly after moving in with her father in the month of January 2015.

### **CONCLUSIONS OF LAW**

The Claimant provided verification of her address through a source which policy lists as being verified upon receipt. The verification was provided prior to the implementation of negative action in the Claimant's case. The Department erred by failing to provide the Claimant adequate time to provide verifications as required by policy, by failing to provide a reason for terminating her SNAP benefits as required by policy, by failing to accept her verification which policy defines as being verified upon receipt, and by not reinstating her benefits when the verification was received.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Department's proposal to terminate the Claimant's SNAP and WV WORKS/WV EAP benefits for failure to verify her residential address. Any benefits the Claimant is entitled to receive shall be reinstated as set forth by policy.

**ENTERED this \_\_\_\_\_ day of May 2015.**

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**Donna L. Toler**  
**State Hearing Officer**