



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

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Cabinet Secretary

BOARD OF REVIEW
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Jolynn Marra
Interim Inspector General

September 12, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 19-BOR-2088

Dear Mr. [REDACTED]

Enclosed is a copy of the AMENDED 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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

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

cc: Jamie Maynard, WV DHHR, [REDACTED] County
Kimberly Vance, WV DHHR, [REDACTED] County

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

██████████,

Appellant,

v.

Action Number: 19-BOR-2088

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

Respondent.

AMENDED DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the AMENDED 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 was convened on August 16, 2019, on an appeal filed July 25, 2019.

The matter before the Hearing Officer arises from the June 18, 2019 decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

Following issuance of the September 5, 2019 decision of the State Hearing Officer, it was discovered that Finding of Fact number six (6) was in error. Therefore, the September 5, 2019 decision (Exhibit A) is hereby VACATED and AMENDED.

At the hearing, the Respondent appeared by Jamie Maynard, Economic Service Worker. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Department of Health and Human Resources (DHHR) Notice, dated May 14, 2019
- D-2 DHHR Notice, dated June 18, 2019
- D-3 DHRR West Virginia Income Maintenance Manual (WV IMM) § 1.2.2.B
- D-4 eRAPIDS computer system screenshot printout of forms list for ██████████, August 29, 2016 through January 4, 2019
- D-5 DHHR Application for Benefits for ██████████
- D-6 eRAPIDS system screenshot printout of Case Comments, January 1, 2019 through July 26, 2019

Appellant'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 Appellant was a recipient of SNAP benefits.
- 2) On May 14, 2019, the Respondent issued a written notice to the Appellant's mailing address of [REDACTED], advising the Appellant of the need to complete an eligibility review for SNAP and Medicaid benefits by June 1, 2019. (Exhibit D-1)
- 3) On June 18, 2019, the Respondent issued a second notice advising the Appellant that due to failure to complete the eligibility review, the Appellant's SNAP benefits would be closed effective June 30, 2019. (Exhibit D-2)
- 4) On July 2, 2019, the Appellant contacted the Respondent regarding the closure of his SNAP benefits. He stated he did not receive the forms previously sent and requested to be seen in the office that date to complete his review and was denied the opportunity to do so. (Exhibit D-6)
- 5) On July 25, 2019, the Respondent contacted the Appellant by phone to advise him of the need to complete an eligibility review in order to reinstate SNAP benefits. (Exhibit D-6)
- 6) The Appellant last completed an application for benefits on July 26, 2018. (Exhibit D-5)

APPLICABLE POLICY

West Virginia Income Maintenance Manual §1.2.1.A reads:

Every person must be afforded the opportunity to apply for all Programs on the date he expresses his interest.

West Virginia Income Maintenance Manual §1.2.2.B reads:

Periodic reviews of total eligibility for recipients are mandated by federal law. These are redeterminations and take place at specific intervals, depending on the program or Medicaid coverage group. Failure by the client to complete a redetermination will result in termination of benefits. If the client completes the redetermination process

by the specified program deadline(s) and remains eligible, benefits must be uninterrupted and received at approximately the same time.

The redetermination process involves basically the same activities described in Application Process above. Eligibility system changes and client notification of any changes resulting from the redetermination conclude the process.

West Virginia Income Maintenance Manual §1.2.5 reads, in part:

An interview is required for SNAP but may be completed by phone or face-to-face. Medicaid does not require an interview.

The interview may be completed by the client or authorized representative visiting the office, or by the Worker making a home visit. Whether or not a face-to-face interview is required is found in program-specific sections of this chapter, along with any information that is specific to a particular program.

When it is not feasible for the applicant to be interviewed, if an interview is required or requested, on the date he expresses his interest, he must be allowed to complete the process at a later date. An appointment may be scheduled for his return, or the client may return at his convenience, depending upon the procedure established by the CSM.

West Virginia Income Maintenance Manual §1.4.1 reads in part:

If the AG has missed an issuance month and is not eligible for reinstatement of benefits, a new application form and interview is required. If the application is approved, the AG will be assigned a new certification period.

West Virginia Income Maintenance Manual §1.4.3 reads:

The date of application is the date the applicant submits a DFA-2 or DFA-SNAP- 1 in person, by fax, other electronic transmission, or by mail, which contains, at a minimum, his name, address, and signature. When the application is submitted by mail or fax, it is considered an original application and the date of application is the date that the form with the name, address, and signature is received in the local office.

All SNAP applicants must be screened for Expedited Service on the day the application is made, whether the client is applying for SNAP benefits only or SNAP benefits in combination with any other program.

When the application is submitted by inROADS, the date of application is the date it is submitted.

West Virginia Income Maintenance Manual §1.4.4.A reads, in part:

If the client misses an interview and contacts the office within 30 days from the application date, the Worker reschedules the interview and issues a notice to confirm the rescheduled appointment. If eligibility is established in the 30-day application processing period, benefits are prorated from the date of application.

DISCUSSION

Policy indicates that periodic reviews of total eligibility for SNAP recipients are mandated by federal law. The redeterminations take place at specific intervals, depending on the program. Failure by the client to complete a redetermination will result in termination of benefits.

The Respondent testified that on May 14, 2019, a letter was issued to the Appellant notifying him that he was required to complete a SNAP review by June 1, 2019, or his benefits would be closed. On June 16, 2019, when the Appellant failed to complete the review, the Respondent issued another letter stating that the Appellant's SNAP benefits would terminate effective June 30th, 2019. The Appellant argued he did not receive the May 14, 2019 or June 16, 2019 notices and proffered the theory of an incorrect address as to why he did not. However, after a review of evidence, the notices were found to have been issued to the correct address on file.

The Appellant testified that on July 2, 2019, he called the Department regarding his benefits and was informed of the missed review. Subsequently, the Appellant asked to come in that day to have his review while "in the area". He further testified that the Department representative stated, "it would not do any good to come in and fill it out because we would still have to schedule an appointment".

Finding the Appellant's testimony credible, and pursuant to the policy which requires an applicant be given the opportunity to apply on the date of interest, and also indicates that "when it is not feasible for the applicant to be interviewed at the time it is required or requested.....a recipient must be allowed to complete the process at a later date, and an appointment scheduled". The Department must provide by a preponderance of evidence that it correctly applied this policy to the Appellant's SNAP case. Because the Department did not provide evidence to establish why the Appellant had not been seen on that date or an appointment scheduled for a later date, it did not meet this standard of proof.

Federal regulations do not permit continuation of SNAP benefits without the completion of the periodic review. Because the Appellant's last application was completed in July of 2018, he is required to submit an application and complete an interview before eligibility can be established.

CONCLUSIONS OF LAW

- 1) Because the Appellant failed to return his SNAP redetermination by the established deadline, the Department was required to terminate his SNAP benefits.
- 2) Because the Appellant is not eligible for reinstatement of benefits, a new application and interview are required.

- 3) Policy section 1.2.1.A indicates that every person must be afforded the opportunity to apply for all Programs on the date of interest. Because the Department erred by denying the Appellant the right to apply for benefits on the date requested (July 2, 2019) benefits should be considered from the date of request.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to terminate the Appellant's Supplemental Nutrition Assistance Program benefits. Further, it is the decision of the State Hearing Officer that the matter is hereby **REMANDED** to the Department to give the Appellant opportunity to complete an application and interview for SNAP benefits within thirteen (13) days. If otherwise eligible, the benefits shall be prorated from July 2, 2019.

ENTERED this _____ day of September 2019.

**Angela D. Signore
State Hearing Officer**