



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313
304-746-2360
Fax – 304-558-0851**

**Jolynn Marra
Interim Inspector General**

October 8, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NOS.: 19-BOR-2350 & 19-BOR-2351

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,

Danielle C. Jarrett
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29
cc: Tera Pendleton, Department Representative

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

██████████,

Appellant,

v.

**BOR Action Numbers: 19-BOR-2350 &
19-BOR-2351**

**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 was convened on September 26, 2019, on an appeal filed August 29, 2019.

The matter before the Hearing Officer arises from the March 19, 2019 decision* by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits and the April 18, 2019 decision* by the Respondent to terminate the Appellant's Qualified Medicare Beneficiary (QMB) coverage for the failure to complete a Periodic Report Form.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn.

*Although the request for a hearing was received after the ninety (90) day deadline, the Department Representative indicated they had no objection to proceed to fair hearing as the untimely submission was due to the Appellant's incorrect address.

Department's Exhibits:

NONE

Appellant's Exhibits:

NONE

After a review of the record, including testimony 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 received SNAP benefits and QMB coverage for a one-person Assistance Group (AG).
- 2) On March 19, 2019, the Respondent issued a notice advising the Appellant that her SNAP benefits would terminate after March 31, 2019, due to her failure to submit a Periodic Report Form.
- 3) On April 18, 2019, the Respondent issued a notice advising the Appellant that her QMB coverage terminated, effective April 30, 2019, due to her failure to submit a Periodic Report Form.
- 4) During the hearing, the Appellant verified her address of [REDACTED].
- 5) The March 19 and April 18, 2019 notices reflected an invalid address of [REDACTED].

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) § 1.2.2.B reads that periodic review of total eligibility for recipients are mandated by 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 usually results in ineligibility. If the client completes the redetermination process by a specified program deadline(s) and remains eligible, benefits must be uninterrupted and received at approximately the same time.

WV IMM § 1.2.2.C explains that when a redetermination is a required periodic review of total eligibility, a review may be conducted at any time on a single or combination of questionable eligibility factors.

WV IMM § 1.2.3.A explains the Worker has general responsibilities in the application process, including the duty to inform the client of the process involved in establishing eligibility, including the Department's processing time limits.

WV IMM § 1.4.18.D Scheduling Interviews provides in part:

When the client submits a redetermination, either in person, by mail, fax or inROADS, but fails to complete a scheduled interview for redetermination, he is

notified of the missed interview and that it is his responsibility to reschedule the interview. In addition, he receives notice of AG closure if the redetermination is not completed. When the client does not submit redetermination form, he is only notified of AG closure.

All SNAP AGs must receive a notice of expiration of the certification period. For cases certified for more than one month, the notice must be received in the month prior to the last month of certification.

WV IMM § 1.4.18.E explains that a SNAP redetermination is a reapplication for benefits. Under no circumstances are benefits continued past the month of redetermination, unless a redetermination is complete, and the client is found eligible. If the recipient is no longer eligible, the SNAP AG is closed.

WV IMM § 1.6.6 explains that if the Department simply failed to act promptly on the information already received, benefits are retroactive to the date eligibility would have been established had the Department acted in a timely manner.

WV IMM § 1.7.7.A reads that Medicaid redeterminations occur annually, that the Department will mail a pre-populated form containing case information” and the recipient is required to provide additional information necessary to determine continuing eligibility. This policy also notes “Failure to respond and provide the necessary information will result in closure of the benefit.”

WV IMM § 1.8.6.B reads that if the client’s coverage is interrupted due to agency delay or error, procedures for reimbursement of the client’s out-of-pocket expenses may apply.

WV IMM § 9.3.2.C.3 reads that the notice of closure must include the action being taken, the date the action is effective, the reason for the action, and the WV IMM section on which the decision was based. The notice must also include that Medicaid Assistance Group (AG) is being closed.

DISCUSSION

The Appellant was a recipient of SNAP benefits and QMB coverage and notice was mailed which required the Appellant to complete a Periodic Report Form in order to continue receiving benefits. On March 19 and April 18, 2019, the Respondent issued notices advising the Appellant her SNAP benefits would terminate after March 31, 2019, and that her QMB coverage would be terminated, effective May 1, 2019, due to her failure to complete a Periodic Report Form. On the Appellant’s request for fair hearing, she contended that she did not receive a Periodic Report Form.

Policy states that periodic reviews of total eligibility for recipients are mandated by law. These are determinations which take place at specific intervals, depending on the program or coverage group. Failure by the Appellant to complete a redetermination usually results in ineligibility.

While there was no argument that policy requires periodic reviews at specific intervals, the Appellant provided credible testimony that she did not receive a notice which included the Periodic Report Form or the March 18 and April 18, 2019 notices of termination which were mailed to [REDACTED].

The Appellant testified she has never resided at [REDACTED]. The Appellant testified someone in [REDACTED], stole her identity and had fraudulently used her identity since 2018, to receive benefits from the Department of Health and Human Resources (DHHR). The Appellant testified that she had “no clue” someone had stolen her identity until she received a notice from the Social Security Administration that she was responsible for her Medicare Part B premium from May 2019 through August 2019. The Appellant argued that she reported her stolen identity to Investigations and Fraud Management (IFM) and also filed a police report. Because the March 19 and April 18, 2019 notices were mailed to an invalid address, the Appellant did not receive proper notice.

The Respondent testified that SNAP benefits and QMB coverage were issued to an invalid address for the Appellant. The Respondent testified the Department had the Appellant’s correct address of [REDACTED], but failed to update the Appellant’s case recording system when she reported her address in January of 2018.

The Respondent had a responsibility during the Appellant’s redetermination process to obtain all pertinent necessary information through verification, when appropriate. The Respondent had an invalid address on record for the Appellant resulting in the Periodic Report Form being mailed to an invalid address.

The Respondent possesses the burden of proof to establish that it was not responsible for the mailing address error. The Respondent admitted on record that the invalid address was a Department error. The Appellant also included her correct address and an explanation of her stolen identity on her Hearing Request form.

During the hearing, the Respondent indicated the Appellant was issued an auxiliary of SNAP benefits from April 1, 2019 to September 30, 2019. The Respondent also indicated that the Appellant’s SNAP benefits and QMB coverage were reinstated, effective October 1, 2019. Policy indicates that under no circumstance are SNAP benefits continued past the month of redetermination, unless a redetermination is completed and the Appellant is found eligible. It is unknown if the Appellant completed a SNAP redetermination as required by policy. There was no documentation verifying the Respondent reinstated the Appellant’s SNAP benefits and QMB coverage, or the amount of SNAP auxiliary issued, if any.

CONCLUSIONS OF LAW

- 1) Because the address reflected on the March 19 and April 18, 2019 notices issued to the Appellant was invalid, the Respondent failed to issue proper notice to the Appellant advising her of the need to complete a Periodic Report Form for continued SNAP and QMB benefits as required by policy.
- 2) Because the Respondent failed to send the Periodic Report Form to the Appellant's correct address, the Appellant was not informed that a Periodic Report Form was required for continued SNAP and QMB eligibility.
- 3) Because the Appellant did not receive notice of her QMB redetermination, the Respondent is required to send proper notice prior to the termination of her QMB coverage.
- 4) Because the Appellant did not receive notice of her SNAP redetermination as required by policy, corrective action must be taken to send proper notice and permit the Appellant the opportunity to establish eligibility.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's SNAP benefits as reflected in the March 19, 2019 notice, after March 31, 2019. It is further **ORDERED** that the matter is **REMANDED** to the Respondent for proper notice of SNAP redetermination and reinstatement of any lost benefits, retroactive to April 1, 2019, if otherwise eligible.

It is further the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to terminate the Appellant's QMB coverage, effective April 30, 2019, until proper notice is received. It is further **ORDERED** that the matter is **REMANDED** to the Respondent for proper notice of redetermination for QMB coverage.

All notices issued to the Appellant should include the Appellant's right to a Fair Hearing through the Board of Review.

ENTERED this ____ day of October 2019.

Danielle C. Jarrett
State Hearing Officer