



**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**

May 22, 2020

[REDACTED]  
[REDACTED]  
[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 20-BOR-1436

Dear Mr. [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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

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

cc: Drema Hill, Department Representative

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

██████████,

**Appellant,**

**v.**

**Action Number: 20-BOR-1436**

**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 April 21, 2020, on an appeal filed March 26, 2020.

The matter before the Hearing Officer arises from the March 11, 2020 decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Drema Hill. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████. All witnesses were sworn and neither party admitted any documents into evidence.

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) The Respondent sent the Appellant a notice, on or about March 12, 2020, advising him that his SNAP benefits would be terminated.

- 3) The Appellant did not refuse to cooperate with Quality Control (QC).

### **APPLICABLE POLICY**

The West Virginia Income Maintenance Manual (WVIMM), Chapter 2, outlines common eligibility requirements for SNAP. At §2.4, this policy addresses cooperation with Quality Control (QC), and reads, “A recipient of Supplemental Nutrition Assistance Program (SNAP) benefits and/or Medicaid is required to cooperate with Quality Control (QC) if selected for a QC review.”

At §2.4.1, the policy addresses a refusal to cooperate and reads, “When a client refuses to participate or cooperate in the review, **the benefit** for which the QC review was attempted **must be stopped** after advance notice, except for Medicaid coverage for children, pregnant women, and Supplemental Security Income (SSI) clients.” (emphasis added)

This section additionally reads, “The QC Reviewer advises the local office when a client refuses to cooperate.”

At §2.4.2, the policy addresses a failure to cooperate and reads, “When a client fails to participate or cooperate in the review, **benefits are not stopped**, but case comments must be added in the case record.” (emphasis added)

This section additionally reads, “The QC Reviewer notifies the local office when a client fails to cooperate.”

At §2.4.2, a policy note reads, “The decision as to whether a client’s actions constitute a failure to cooperate or a refusal to cooperate is made by the QC Reviewer. The memorandum issued by the QC Reviewer will state the determination.”

### **DISCUSSION**

The Appellant has appealed the Respondent’s decision to terminate his SNAP benefits related to cooperation with the Respondent’s Quality Control (QC) unit. The Respondent must show by a preponderance of the evidence that it properly terminated SNAP benefits on this basis.

The Respondent did not admit evidence in this case, and the representative for the Respondent indicated this was because the evidence was not delivered to the Appellant. The Appellant did not submit evidence in this case. The representative for the Respondent was not the worker who conducted the underlying action – the Quality Control (QC) Reviewer responsible for the QC review with the Appellant was not present for the hearing and had not been contacted by the Respondent’s representative to appear at the hearing to testify. The representative for the Respondent did not request a continuance to address these issues before proceeding to hearing.

The representative for the Respondent testified that her action was based on a memorandum from the QC reviewer for the Respondent, not on any first-hand knowledge of the substance of the QC

review. The representative for the Respondent testified that the Appellant “did not complete” a QC review. The Appellant testified that he “did cooperate” with the QC review and answered the questions asked by the QC reviewer. The Appellant testified that he “drove down to Wayne” with his sister to participate in the QC review. [REDACTED], the Appellant’s sister, confirmed this and testified the Appellant “complied.”

Policy for SNAP requires all recipients to comply with QC reviews, and SNAP benefits may be stopped for “refusal to cooperate” with the QC review. The preponderance of the evidence and testimony in this case indicated the Appellant did not refuse to cooperate with the QC review. The Appellant and his sister provided convincing testimony that they went to meet with the QC reviewer and detailed how they answered her questions. The representative for the Respondent was not present for the QC review but testified she received notification from the QC Reviewer indicating the Appellant “did not complete” a QC review and closed the Appellant’s SNAP benefits on that basis. Policy provides for SNAP termination when the SNAP recipient “refuses to participate or cooperate in the review,” (§2.4.1) but in an instance of “failure to cooperate,” the SNAP benefits are not stopped (§2.4.2). Because policy only provides for case closure in one of the two scenarios – and because the QC reviewer notifies the local office by memorandum in *either* scenario – it was critical for the Respondent to clearly establish the Appellant’s actions constituted the “refusal to cooperate” that provides for case closure. The Respondent did not provide convincing testimony distinguishing between these two scenarios, and the preponderance of the evidence about the QC review itself supported the Appellant’s contention that he did not refuse to cooperate with QC.

Because the preponderance of evidence and testimony from the hearing indicated the Appellant did not refuse to comply with QC, the Respondent was in error to terminate SNAP benefits on that basis.

### **CONCLUSION OF LAW**

Because the Appellant did not refuse to cooperate with a QC review, the Respondent must not terminate SNAP benefits.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent’s decision to terminate SNAP benefits.

**ENTERED this \_\_\_\_ Day of May 2020.**

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**Todd Thornton**  
**State Hearing Officer**