



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
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Charleston, West Virginia 25313
304-746-2360
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**Jolynn Marra
Interim Inspector General**

December 23, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:20-BOR-2601

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,

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.

Action Number: 20-BOR-2601

**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 December 16, 2020, on an appeal filed December 1, 2020.

The matter before the Hearing Officer arises from the November 18, 2020 decision by the Respondent to terminate the Appellant's Supplemental Nutritional Assistance Program (SNAP) benefits due to failure of the Appellant to complete an Eligibility Review.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 eRAPIDS computer system screenshot printout of Case Comments, dated May 9, 2019 through December 1, 2020
- D-2 Supplemental Nutritional Assistance Program (SNAP) and Medicaid/WVCHIP Review Form (CSLR), dated October 15, 2020
- D-3 Notice of Missed SNAP Interview (CSLN), dated November 12, 2020
- D-4 Notice of Decision, dated November 18, 2020
- D-5 West Virginia Income Maintenance Manual (WV IMM) §§ 1.2.2 through 1.2.2.B

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 received Supplemental Nutritional Assistance Program (SNAP) benefits for a one-person Assistance Group (AG).
- 2) On October 15, 2020, the Respondent issued a notice advising the Appellant that his SNAP benefits were due for a review by November 30, 2020, and that the enclosed review form was to be returned by November 1, 2020. The notice indicated that failure to submit the review form by the deadline would result in termination of SNAP benefits after November 30, 2020. (Exhibit D-2)
- 3) The October 15, 2020 notice further advised the Appellant that if he submitted his review form, a worker would contact him on November 10, 2020, to review his submitted form. (Exhibit D-2).
- 4) A telephone interview was not conducted on November 10, 2020.
- 5) The Appellant returned his review form sometime between November 1 and November 12, 2020.
- 6) On November 12, 2020, the Respondent issued notice advising the Appellant that he failed to keep his scheduled appointment to complete a SNAP redetermination. (Exhibit D-3)
- 7) On November 18, 2020, the Respondent issued a notice advising the Appellant that his SNAP benefits were being terminated and would expire in November 2020, due to the Appellant not completing an Eligibility Review. (Exhibit D-4)
- 8) The November 18, 2020 notice advised the Appellant that if he completed an Eligibility Review, his benefits may be reopened, but they may be delayed. (Exhibit D-4)

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 § 1.2.3.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.A Redetermination Forms provides in part:

The following methods can be used for redetermination:

- System generated redetermination forms (CSLE or CSLR)
- West Virginia People's Access to Help (WV PATH)
- DFA-2 and DFA-RR-1
- DFA-SNAP-1

The eligibility system automatically mails the CSLE in the last month of the certification period. The form must be completed and returned prior to the scheduled interview date specified on the CSLE/CSLR. The form is considered completed when signed and dated by the client or his authorized representative or completed and submitted by WV PATH.

WV IMM § 1.4.18.C Redetermination Interview provides in part:

An interview is required regardless of the method by which the redetermination is completed. A phone interview is conducted unless the client or his authorized representative requests a face-to-face interview. The Worker must schedule the appointment.

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

When the client submits a redetermination, either in person, by mail, fax or WV PATH, 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 the AG closure if the redetermination is not complete.

When the client does not submit a redetermination form, he is only notified of AG closure.

When an AG submits a completed CSLE/CSLR or WV PATH redetermination prior to the scheduled interview date, the Worker must contact the AG at the scheduled time to conduct the telephone interview. The Worker must make a reasonable attempt to contact the AG to conduct the telephone interview. If an AG does not answer the Worker's call, the Worker must document in case comments the reasonable attempt(s) made prior to a redetermination that the appointment was missed. The AG is notified of the missed interview and it is the AG's responsibility to reschedule. The notice of missed interview is scheduled in the notice of closure and/or denial.

When an AG submits a complete CSLE/CSLR or WV PATH redetermination after the originally scheduled interview date, the Worker must schedule another interview appointment. The interview appointment must be scheduling using current system procedures allowing time to provide notice to the client and to conduct the interview.

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

WV IMM § 1.4.18.E.1 reads that clients who fail to submit their redetermination form timely, fail to complete an interview, or fail to submit missing verification by the established deadline lose the right to uninterrupted benefits. Uninterrupted benefits are benefits received within 20 days of the last issuance. For longer certifications, uninterrupted benefits are benefits received at the usual time in the issuance cycle.

WV IMM § 1.4.18.E.2 explains when the AG does not submit a redetermination before the end of the certification period, a new application is required. If the CSLE/CSLR is not completed or returned by the end of the certification period, benefits are stopped. Notice of closure is required, but advance notice is not required. If the CSLE is returned in the month after the end of the certification period, no DFA-2 or DFA-SNAP-1 is required for reapplication. The CSLE/CSLR is used as the application form and benefits are prorated from the date the application is received in that month.

DISCUSSION

The Appellant was a recipient of SNAP benefits for a one-person AG and was mailed notice that he was required to complete a SNAP Eligibility Review in order to continue receiving benefits. On October 15, 2020, the Respondent issued a notice advising the Appellant that his SNAP benefits were due for a review by November 30, 2020, and that the enclosed review form was to be returned by November 1, 2020. The notice indicated that failure to submit the review form by the deadline would result in termination of SNAP benefits after November 30, 2020. The October 15, 2020 notice advised the Appellant that if he submitted his review form, a worker would contact him on November 10, 2020, to review his submitted form. The notice further advised that if the Appellant did not complete and submit the review form, he would not receive SNAP benefits after November 30, 2020.

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.

The Appellant testified that he failed to submit his review form by the due date of November 1, 2020, but that he did turn it in sometime after the due date. The Respondent testified that she checked the eligibility system and did not locate the Appellant's review form. The Appellant

alleged that the Respondent erred by not calling him for his interview scheduled on November 10, 2020.

On November 12, 2020, the Respondent issued notice advising the Appellant that he failed to keep his scheduled SNAP redetermination appointment. A telephone interview was not conducted on November 10, 2020. The Respondent testified that the Appellant failed to return his review form and as a result he was not called for the scheduled interview.

Policy explains when the Appellant submits a review form, but fails to complete a scheduled interview for redetermination, he will receive **both** a notice of failure to keep his scheduled appointment and notice of closure. Policy further states that if the review form is not received, he would only receive a notice of termination. The fact that the Appellant received both the notice for failure to keep his scheduled appointment and the notice of closure, implies that his review form was received by the Department because a notice of missed appointment is only mailed to individuals who return their review form. Because the Appellant testified that he returned the review form and the system-generated notice that only goes out when the review form is received was issued, the preponderance of evidence establishes the redetermination form was returned, but not processed.

Finally, policy requires the completion of a redetermination form for uninterrupted benefits. If the Respondent is unable to locate the Appellant's review form, they should request a new one be completed and provide ample time for its return and completion of interview.

CONCLUSIONS OF LAW

- 1) Because the Appellant submitted his Eligibility Review form before the end of the certification period, policy requires that a scheduled telephone interview be conducted.
- 2) Because the Appellant submitted his review form and the Respondent failed to contact the Appellant for his scheduled telephone interview, the Appellant's review form should be located and processed or a new review form should be provided to the Appellant with sufficient time to complete and return to the Department.
- 3) Because the Appellant submitted his review form after the scheduled phone interview, the Respondent was required to reschedule the phone interview for the Appellant.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Department's decision to terminate the Appellant's SNAP benefits as reflected in the November 12, 2020 notice. Additionally, the matter is hereby **REMANDED** for completion of the Eligibility Review form and interview.

It is further hereby **ORDERED** that should the Appellant be determined eligible, SNAP benefits shall be restored retroactive to December 1, 2020, in compliance with policy. 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 December 2020.

Danielle C. Jarrett
State Hearing Officer