



**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**

February 8, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:21-BOR-1021

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.

Action Number: 21-BOR-1021

**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' (WVDHHR) Common Chapters Manual. This fair hearing was convened on January 22, 2021, on an appeal filed December 30, 2020.

The matter before the Hearing Officer arises from the December 18, 2020 decision by the Respondent to terminate the Appellant's Supplemental Nutritional Assistance Program (SNAP) benefits due to failure of the Appellant to return 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 and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 eRAPIDS computer system screenshot printout of Case Comments, dated July 22, 2020 through January 6, 2021
- D-2 Supplemental Nutrition Assistance Program (SNAP) – 6- or 12-Month Contact Form, dated November 23, 2020
- D-3 10 Day Notice of Not Returning the Interim Contact Form, dated December 3, 2020
- D-4 Notice of Decision, dated December 18, 2020
- D-5 West Virginia Income Maintenance Manual (WV IMM) §§ 1.4.14.A.2 through 1.4.14.B.2; and WV IMM § 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 Nutrition Assistance Program (SNAP) benefits for a one-person Assistance Group (AG).
- 2) On November 23, 2020, the Respondent issued a notice advising the Appellant that her SNAP benefits were due for a review and that the enclosed Periodic Report Contact Form (PRC2) was to be returned by December 1, 2020. The notice indicated that failure to submit the review form by the deadline would result in termination of SNAP benefits. (Exhibit D-2)
- 3) The Appellant returned the November 23, 2020 PRC2 review form sometime prior to December 4, 2020.
- 4) On December 3, 2020, the Respondent issued a notice advising the Appellant that she failed to return the November 23, 2020 PRC2 review form. (Exhibit D-3)
- 5) On December 4, 2020, the Department returned the Appellant's submitted PRC2 review form to the Appellant via United States Postal Service (USPS) mail. (Exhibit D-1)
- 6) On December 18, 2020, the Respondent issued a notice advising the Appellant that her SNAP benefits were terminated effective December 31, 2020, due to failure to complete the November 23, 2020 PRC2 review form. (Exhibit D-4)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) § 1.4.1.D Failure to Complete the Interim Contact Form provides in part:

When a SNAP AG is closed for failure to complete the interim contact form, a new application is not required when the form is returned by the last day of the 13th month for households certified for 24 months. For households certified for 12 months, the form must be returned by the last day of the seventh month. Benefits are prorated from the date the interim contract form is returned. If the form is not returned, a new application must be completed.

WV IMM § 1.7.7.A Redetermination Process Provides in part:

Cases are normally redetermined annually. The redetermination schedule is set automatically by the eligibility system.

When possible, the redetermination process is completed automatically using electronic data matches without requiring information from the client. This redetermination process is initiated by the eligibility system, which matches current information with the hub. The Reasonable Compatibility Provision applies each time this occurs. See Section 7.2. If determined eligible after completing the redetermination process, the DHHR will notify the client. The notice will identify the information used to determine eligibility. If the customer agrees with the information, no further action is required. If the client does not agree, he is to report the information that does not match the circumstances.

When the redetermination process cannot be completed automatically, the eligibility system sends a pre-populated form containing case information and requires the client to provide additional information necessary to determine continuing eligibility. A signature is required.

WV IMM § 7.2.1 When Verification is Required provides in part:

Verification of a client's statement is required when:

- Policy requires routine verification of specific information.
- The information provided is questionable. To be questionable, it must be:
 - Inconsistent with other information provided; or
 - Inconsistent with the information in the case file; or
 - Inconsistent with information received by the DHHR from other sources; or
 - Incomplete; or
 - Obviously inaccurate; or
 - Outdated.
- Past experience with the client reveals a pattern of providing incorrect information or withholding information. A case recording must substantiate the reason the Worker questions the client's statement.
- The client does not know the required information.

WV IMM § 7.2.4 explains the Worker has the following responsibilities in the verification process at application, redetermination, and anytime a DFA-6 (verification notice) is used, the Worker must list all required verification known at the time. The Worker should only request additional verification if information provided is incomplete or additional information is necessary to determine eligibility.

WV IMM § 9.3.5.B reads the date entered on the DFA-6 must be at least 10 days from the date on the DFA-6. If the information is not available by the date indicated, and the client has not contacted the Worker, the AG is closed or the deduction disallowed. The client must be notified of the denial or disallowance of a deduction by form DFA-NL-B,

Notification Letter: Action Taken On The Benefits You Receive From The DHHR. Benefits must not be continued beyond the certification period, unless a redetermination is complete, and the client remains eligible. See Section 1.4.

WV IMM § 10.4.2.D Interim Contact Reports provides in part:

All SNAP AGs certified for 12 or 24 months must have a report completed in the mid-month of eligibility (the sixth month for 12-month certification periods, the twelfth month for 24-month certification periods.) this report differs from a full-scale redetermination as follows:

- The contact report may be completed by mail.
- No interview is conducted unless the client requests one.

The eligibility system automatically mails an Interim Contact Form (PRC2) to the AGs for the mid-month of eligibility. Failure to return the completed PRC2 results in case closure. Changes reported on the PRC2 are treated as changes reported during the certification period, not as changes reported during the completion of a redetermination.

Code of Federal Regulations (CFR) § 273.2.4 (c)(iii) provides in part:

Each household has the right to file an application form on the same day it contacts the SNAP office during office hours. The household shall be advised that it does not have to be interviewed before filing the application and may file an incomplete application form as long as the form contains the applicant's name and address and is signed by a responsible member of the household or the household's authorized representative. Regardless of the type of application system used, the State agency must provide a means for all applicants applying through any mechanism to immediately begin the application process by filing an application with only the name, address, and signature.

DISCUSSION

The Appellant received Supplemental Nutrition Assistance Program (SNAP) benefits for a one-person AG. On November 23, 2020, the Respondent issued a notice advising the Appellant that her SNAP benefits were due for a review and that the enclosed Periodic Report Contact Form (PRC2) was to be returned by December 1, 2020. The notice indicated that failure to submit the review form by the deadline would result in termination of SNAP benefits.

On December 3, 2020, the Respondent issued a notice advising the Appellant that she failed to return the November 23, 2020 PRC2 review form. The Appellant was confused by the process. The Appellant thought she returned the PRC2 review form as directed and became confused when the Department sent a notice on December 18, 2020, telling her that SNAP was closed for failure to return the PRC2 review form. The Respondent testified that the Appellant did return the PRC2

review form, but that it was sent back to her on December 4, 2020, because they deemed the form to be “incomplete”. The Respondent testified that a reviewer looks over returned PRC2 review forms and returns them to the sender if fields are missing.

Policy and Federal Regulations define a “complete” application/redetermination as one that contains, at a minimum, the name, address, and signature of the applicant/recipient. The testimony from the Respondent that the form was deemed incomplete due to missing fields does not align with policy. The name and address of the recipient is pre-populated on the PRC2 review form, and the Respondent failed to establish the form was unsigned by the Appellant.

Policy further establishes that if information is missing or incomplete, a verification checklist known as an ES-6, must be issued. The Department worker is required to list all needed information known at the time of ES-6 is issued. The Respondent failed to establish that such notice was issued to the Appellant when the PRC2 review form was returned.

CONCLUSIONS OF LAW

- 1) The Appellant returned her PRC2 review form after the due date of December 1, 2020, but before the effective date of the adverse action, as required by policy.
- 2) The Respondent failed to establish by a preponderance of evidence that the PRC2 form submitted by the Appellant did not contain, at a minimum, her signature to be considered complete.
- 3) The Respondent failed to request additional information by utilizing a verification checklist as required by policy.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to terminate the Appellant’s Supplemental Nutrition Assistance Program (SNAP) benefits as reflected in the December 18, 2020 notice. Additionally, the matter is hereby **REMANDED** for location of the PRC2 form and a verification checklist issued for additional information required to process in accordance with the timeframes established by policy.

It is hereby **ORDERED** that should the Appellant be determined eligible, SNAP benefits shall be restored retroactive to January 1, 2021, in compliance with policy. If the Appellant is determined ineligible then proper notice shall be issued and should include the Appellant’s right to a Fair Hearing through the Board of Review.

ENTERED this ____ day of February 2021.

Danielle C. Jarrett
State Hearing Officer