



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
Berkeley County DHHR
PO Box 1247
Martinsburg, WV 25402**

**Jolynn Marra
Interim Inspector General**

March 15, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-1086

Dear [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,

Lori Woodward, J.D.
Certified State Hearing Officer
Member, State Board of Review

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

cc: Jamie Maynard, BCF, [REDACTED] Co. DHHR

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

██████████,

Appellant,

v.

ACTION NO: 21-BOR-1086

**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 February 25, 2021, on an appeal filed January 19, 2021.

The matter before the Hearing Officer arises from the Respondent's January 19, 2021 decision to issue a prorated amount of Supplemental Nutrition Assistance Program (SNAP) benefits for the month of January without the supplemental Families First Coronavirus Response Act SNAP emergency allotment (FFCRA EA).

At the hearing, the Respondent appeared by Jamie Maynard, Family Support Services. Appearing as a witness for the Respondent was Eugene Snyder, Family Support Supervisor. The Appellant appeared *pro se*. The witnesses were sworn, and the following documents were admitted into evidence:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 January 20, 2021 Email from Ashley Puffenbarger to Jamie Maynard
- D-3 Verification Checklist (DFA-6), dated November 2, 2020
- D-4 December 18, 2020 SNAP closure Notification (EDC1)
- D-5 Notice of SNAP reduction, dated January 19, 2021

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 is a recipient of SNAP benefits.
- 2) The Respondent conducted a SNAP redetermination interview with the Appellant on October 30, 2020. (Exhibit D-1)
- 3) On November 2, 2020, a Verification Checklist was sent to the Appellant explaining she needed to return “OTHER PENSION/RETIREMENT/Proof of this type of unearned income” by November 13, 2020, otherwise her SNAP benefits would be closed. (Exhibit D-3)
- 4) On December 18, 2020, the Respondent issued a notice of SNAP closure effective December 31, 2020, as the requested income verification was not returned by the due date. (Exhibit D-4)
- 5) On January 15, 2021, the Appellant submitted the requested verification, and her SNAP benefits were reopened and pro-rated from the date the Appellant returned the information. (Exhibit D-5)

APPLICABLE POLICY

WV IMM, Chapter 1, §1.2.2.B, *Redetermination Process*, explains in part that 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.

SNAP redetermination is a 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, Chapter 1, §1.4.18.E)

The primary responsibility for providing verification rests with the client. Failure of the client to provide necessary information or to sign authorizations for release of information results in denial of the application or closure of the active case. (WV IMM, Chapter 7, §7.2.3)

WV IMM, Chapter 1, §1.4.1.A, *Failure to Provide Requested Verifications*, explains that different procedures apply when the case is closed because of failure to provide needed verification at the time of redetermination. When the client provides the verification within 30 days of the end of the certification period, it is still considered a redetermination and a new application is not required. See Section 1.4.18, *Application and Redetermination Variations*, for instructions on proration due to delayed processing.

WV IMM, Chapter 1, §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 completed, and the client is found eligible. If the recipient is no longer eligible, the SNAP AG is closed. 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. Benefits are prorated in the following redetermination situations and the certification period begins the month following the end of the previous certification period and a reapplication is not required.

- The verification is due within the last month of the certification period and is not returned until the following month. Benefits are prorated from the date the verification is returned.
- The verification is due after the last day of the certification period and is returned after the due date, but by the end of the month it was due.

Benefits are prorated from the date the verification is returned.

Families First Coronavirus Response Act (FFCRA), Title III, §2301(a)(1) states that in the event of a public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) and the issuance of an emergency or disaster declaration by a State based on an outbreak of COVID-19, the Secretary of Agriculture shall provide, at the request of a State agency (as defined in section 3 of the Food and Nutrition Act of 2008) that provides sufficient data (as determined by the Secretary through guidance) supporting such request, for emergency allotments to **households participating** in the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 to address temporary food needs not greater than the applicable maximum monthly allotment for the household size. [Emphasis added]

DISCUSSION

The Appellant is a SNAP recipient and was required to complete a redetermination for continued eligibility. On October 30, 2020 during the Appellant's SNAP redetermination interview, verification of unearned income was requested in order to complete the redetermination. On November 2, 2020, the Respondent sent a written verification request for unearned income which was due by November 13, 2020. On December 18, 2020, it was determined that the Appellant had not returned the requested verification. The Respondent sent a Notice of SNAP closure to the Appellant on December 18, 2020. On January 15, 2021, the Respondent received the requested verification. The Appellant's SNAP benefits were recertified from the date the information was received.

The Appellant brings this appeal averring that her household should have received a prorated amount of the FFCRA EA for the month of January. The Respondent must show by a preponderance of evidence that the Appellant was ineligible for the FFCRA EA for the month of January.

The United States Department of Agriculture (USDA) through the Food and Nutrition Service (FNS) administers the SNAP program policies. Through the enacted FFCRA in March 2020, the FNS allowed the states to request SNAP emergency allotments for households participating in SNAP to address temporary food needs. The Respondent's Bureau of Children and Families (BCF) unit administers the SNAP program for the state of West Virginia.

The FFCRA is a temporary regulation dependent on approval by the USDA FNS each month. Specific BCF policy is not found in the Respondent's policy manual. The Respondent's representative, Ms. Maynard, testified that she sought clarification of the issue of proration of the FFCRA EA with the Respondent's BCF policy unit. Ms. Maynard explained that the FFCRA EA is a supplemental amount to households who are participating in SNAP which is determined at the beginning of the allotment month for FFCRA EA and are not prorated. Ms. Maynard explained that because the Appellant's household was not participating in SNAP at the beginning of January, the household was not eligible to receive the FFCRA EA.

The FFCRA EA is not issued as part of regular SNAP benefits. Instead, the FFCRA EA is issued as a temporary separate emergency supplemental allotment to households that are participating in SNAP. The language of the FFCRA specifically requires that a household be a participant in SNAP. Because the Appellant's SNAP benefits were closed at the end of December, her household was not participating in SNAP at the beginning of January when the FFCRA EA issued. The Respondent's decision to only issue prorated regular SNAP benefits is affirmed.

CONCLUSIONS OF LAW

- 1) SNAP policy requires individuals to complete a SNAP redetermination, failure to do so results in termination.
- 2) As part of the Appellant's SNAP redetermination, she was requested to provide verification of unearned income, which was due by November 13, 2020.
- 3) The Appellant did not return the requested income verification by the due date resulting in closure of her SNAP benefits after December 31, 2020.
- 4) The FFCRA establishes SNAP emergency allotments to current SNAP households.
- 5) Because the Appellant's household was not a SNAP benefit recipient at the beginning of January, her household was not eligible for the SNAP emergency allotment established by the FFCRA.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's decision to deny the Appellant the FFCRA emergency SNAP allotment for the month of January.

ENTERED this 15th day of March 2021.

Lori Woodward, Certified State Hearing Officer