



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
State Capitol Complex
Building 6, Room 817-B
Charleston, West Virginia 25305
Telephone: (304) 558-2278 Fax: (304) 558-1992**

**Jolynn Marra
Interim Inspector General**

April 23, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 21-BOR-1361

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 Board of Review 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Angela D. Signore
State Hearing Officer
State Board of Review

Enclosure: Appellant's Recourse
Form IG-BR-29

cc: Kimberly Vance, [REDACTED] County DHHR

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

[REDACTED],

Appellant,

v.

ACTION NO.: 21-BOR-1361

**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 [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia (WV) Department of Health and Human Resources' (DHHR) Common Chapters Manual. This fair hearing was convened on April 7, 2021, on an appeal filed March 8, 2021.

The matter before the Hearing Officer arises from the February 26, 2021 determination by the Respondent to deny a request for replacement of Supplement Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Kimberly Vance, Economic Service Supervisor, DHHR. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 DHHR DFA-SNAP-36, Request for Replacement/Supplement of Food Purchased with SNAP Benefits, dated February 21, 2021
- D-2 Appalachian Power verification of power outage, dated March 12, 2021
- D-3 WV DHHR Notice of Decision, dated February 26, 2021
- D-4 West Virginia Income Maintenance Manual (WVIMM) § 12.2
- D-5 WVIMM § 12.2.1.A.1
- D-6 WV PATH eligibility system printout of Case Comments, dated February 18, 2021 through February 24, 2021
- D-7 WV PATH eligibility system printout of Case File Search noting DFA-SNAP-36, SNAP Benefit Replacement Form received February 25, 2021

- D-8 WV PATH eligibility system printout of Case Comments, dated February 26, 2021 through March 04, 2021
- D-9 WV PATH eligibility system printout of Case Comments, dated March 05, 2021 through March 12, 2021

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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant is a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) On February 18, 2021, the Appellant contacted the Department to report the loss of food resulting from a power outage on February 03, 2021.
- 3) The Appellant was required to report the loss of food resulting from a power outage to the Department within ten (10) days of the incident, establishing a due date of February 13, 2021.
- 4) On February 25, 2021, the Appellant submitted a Request for Replacement/Supplement of Food Purchased with SNAP Benefits form to the Department, requesting a replacement of \$500.00 of SNAP benefits due to the reported power outage. (Exhibit D-1)
- 5) On February 26, 2021, the Department issued a notice advising the Appellant that her request for replacement of SNAP benefits was denied due to failure to notify the Department within the ten (10) day timeframe as established by policy. (Exhibit D-4)

APPLICABLE POLICY

Code of Federal Regulations 7 CFR § 274.6 Claims Against Households provides, in part:

Prior to issuing a replacement, the State agency shall obtain from a member of the household a signed statement attesting to the household's loss. The required statement may be mailed to the State agency if the household member is unable to come into the office because of age, handicap or distance from the office and is unable to appoint an authorized representative.

If the signed statement or affidavit is not received by the State agency within 10 days of the date of report, no replacement shall be made. If the 10th day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the State agency shall consider the statement timely received.

West Virginia Income Maintenance Manual (WVIMM) § 1.5.20 Personal Responsibility Contract provides in part:

In cases when food purchased with SNAP is destroyed in a household misfortune or disaster, the AG will be eligible for replacement of the actual value of the loss, not to exceed one month's allotment, if:

- The loss is reported within 10 days of the incident; and
- The AG's misfortune or disaster is verified; and
- The DFA-SNAP-36 is completed and signed within 10 days of the report of the loss.

A misfortune or disaster such as, but not limited to, fire or the loss of power, may affect an individual household. The power outage must exceed four hours. A natural disaster may affect either an individual household or more than one household.

DISCUSSION

On February 26, 2021, the Respondent issued a notice advising the Appellant that her Request for Replacement/Supplement of Food Purchased with SNAP Benefits was denied due to the Appellant's failure to report the loss within the ten (10) day timeframe as established by policy. The Respondent bears the burden of proof to establish that action taken against the Appellant was in accordance with policy. The Respondent had to prove by a preponderance of evidence that the Appellant's February 26, 2021 Request for Replacement/Supplement of Food Purchased with SNAP Benefits was correctly denied.

The Appellant testified that "on the 4th, 5th, and 6th" of February, she contacted the [REDACTED] County DHHR to report a power outage in her area and to request a Replacement/Supplement of Food Purchased with SNAP Benefits form. The Appellant stated that even though she called the Department multiple times, she never received a return call. The Appellant testified that instead, she left a voicemail reporting the outage and requested a DFA-SNAP-36 Request for Replacement/Supplement of Food Purchased with SNAP Benefits form to be mailed during her "last call placed" to the Department on "that Thursday or Friday." The Appellant argued that even though the form was requested at that time, the Department failed to mail the replacement form until February 24, 2021.

The Department Representative testified that records do not reflect any phone calls or voicemails were received in the [REDACTED] County DHHR office from the Appellant during the dates the Appellant

alleges. The Respondent argued that call logs reflect the Appellant's first attempt to contact the Department as February 18, 2021. On that same date (February 18), when the Department attempted to return the Appellant's phone call, they were unable to speak with her. Case notes reflect that because the Appellant was not available, the case worker left a voicemail. The Respondent further testified that the Appellant did not return the February 18, 2021 phone call. Instead, on February 24, 2021, the Appellant contacted Client Services to request the Replacement/Supplement of Food Purchased with SNAP Benefits form.

On the same date – February 24, 2021 – when the [REDACTED] County DHHR office was alerted of the Appellant's request, a Department case worker contacted the Appellant. The Respondent testified the Appellant was informed that a Replacement of SNAP Benefits form would be mailed to her on this date; however, because she failed to report the loss within the ten (10) day timeframe as established by policy, her request "would be denied." Because of this reason, the Respondent testified the Replacement/Supplement of Food Purchased with SNAP Benefits form would have been post marked February 24, 2021, as the Appellant alleged. The Respondent further testified that on February 25, 2021, the Appellant visited the [REDACTED] County DHHR office in person to submit the Request for Replacement/Supplement of Food Purchased with SNAP Benefits form. No testimony was provided as to why the Appellant did not visit the [REDACTED] County DHHR office prior to February 25, 2021.

When asked to clarify the date the Appellant alleges to have left the voicemail notifying the Department of the outage, no clear date could be provided. Further, by the Appellant's own admission, because she "does not answer phone calls" unless the phone number displayed is a familiar number, it was possible the Department did return her call. The Respondent testified that due to the COVID-19 pandemic, much of the Department staff is working from home, and therefore, phone numbers would have displayed as something other than the [REDACTED] County DHHR office. Additionally, as evidenced, multiple return calls were made to the Appellant following the Appellant's February 18, 2021 phone call. Because of this, the Respondent's testimony was found to be reliable.

Pursuant to policy, when food purchased with SNAP benefits is destroyed in a household misfortune or disaster, the assistance group may be eligible for a replacement if: 1) The loss is reported within ten (10) days of the incident, 2) The assistance group (AG) misfortune or disaster is verified; and 3) The DFA-SNAP-36 is completed and signed within ten (10) days of the report of the loss. When the Appellant's outage occurred on February 03, 2021, a loss report date of February 13, 2021 was established. Pursuant to policy, if the outage is not reported to the State agency within ten (10) days of the date of loss, no replacement shall be made.

CONCLUSIONS OF LAW

- 1) As established by policy, when food purchased with SNAP benefits is destroyed in a household misfortune or disaster, the loss must be reported to the State agency within ten (10) days of the incident.

- 2) The Appellant was required to report the loss of food resulting from the February 03, 2021 power outage no later than February 13, 2021.
- 3) Because the Appellant failed to report the loss within the ten (10) day time frame as established by policy, the Respondent was correct to deny the Appellant's replacement SNAP benefits.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant's Request for Replacement/Supplement of Food Purchased with SNAP Benefits.

ENTERED this ____ day of April 2021.

Angela D. Signore
State Hearing Officer