



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
433 MidAtlantic Parkway
Martinsburg, WV 25404
Telephone: (304) 352-0805 Fax: (304) 558-1992**

**Jolynn Marra
Interim Inspector General**

**Esta es la decision de su Audiencia Imparcial. La decision del Departamento ha sido
confirmada/invertido/remetido. Si usted tiene preguntas, por favor
llame a Keyla Dominguez, 304-267-0100**

November 10, 2021

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-2249

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: Peter VanKleeck, BCF, [REDACTED] DHHR

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

████████████████████,

Appellant,

v.

ACTION NO.: 21-BOR-2249

**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 November 4, 2021, on an appeal filed October 14, 2021.

The matter before the Hearing Officer arises from the Respondent's October 6, 2021 decision to close the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Peter VanKleeck, Family Support Supervisor. The Appellant appeared *pro se*. The witnesses were placed under oath and the following documents were admitted into evidence:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Supplemental Nutrition Assistance Program (SNAP) and Medicaid/WV CHIP review form (CSLR), dated August 16, 2021
- D-3 Notice of Supplemental Nutrition Assistance Program (SNAP) missed review (CSLN), dated September 13, 2021
- D-4 Notice of Supplemental Nutrition Assistance Program (SNAP) closure (EDC1), dated September 13, 2021
- D-5 Supplemental Nutrition Assistance Program (SNAP) notice of scheduled telephone interview appointment (CSL4), dated September 27, 2021
- D-6 Notice of Supplemental Nutrition Assistance Program (SNAP) missed review (CSLN), dated October 4, 2021
- D-7 West Virginia Income Maintenance Manual, Chapter 1, §14.18

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 who was scheduled for a telephone interview on September 10, 2021, to complete the recertification process for his benefits. (Exhibit D-2)
- 2) On September 10, 2021, the Respondent's worker called the Appellant's home contact number listed on his returned SNAP review paperwork and in his case record and received a "not in service" recording. (Exhibit D-1)
- 3) On September 13, 2021, the Respondent sent the Appellant notification of missed SNAP telephone interview and need to reschedule, and a notice of SNAP closure as of October 1, 2021. (Exhibits D-3 and D-4)
- 4) On September 27, 2021, the Respondent sent the Appellant a notice of telephone appointment for October 1, 2021. (Exhibit D-5)
- 5) The Respondent sent a notice of missed SNAP telephone appointment to the Appellant on October 4, 2021. (Exhibit D-6)
- 6) On October 5, 7 and 8, 2021, the Appellant went to his local DHHR office attempting to resolve the issue and complete his SNAP redetermination.
- 7) The Respondent's worker attempted to reach the Appellant on October 7 and 8, 2021, without success using the same phone number for the Appellant which was cited in the previous case notes as not being in service. (Exhibit D-1)
- 8) The Respondent made no practicable accommodation to assist the Appellant in overcoming this known issue.
- 9) On October 6, 2021, the Respondent sent the Appellant notification of SNAP benefit closure as of November 1, 2021, citing the cause as the Appellant's failure to complete a "required telephone or face-to-face interview".

APPLICABLE POLICY

WV IMM, Chapter 1, §1.2.2.B, *Redetermination Process*, in pertinent part, explains 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. [Emphasis added]

WV IMM, Chapter 1, §1.4.15, explains that redetermination procedures follow the same procedures as an application. An interview is required unless it is completed by the Social Security Administration (SSA). When found eligible, the client's new certification period is established based on the current household circumstances.

WV IMM, Chapter 1, §1.2.5, *Intake Interview*, in pertinent part, explains that when it is not feasible for the applicant to be interviewed, if an interview is required or requested, on the date he expresses his interest, he must be allowed to complete the process at a later date. An appointment may be scheduled for his return, or the client may return at his convenience, depending upon the procedure established by the CSM (Community Service Manager). If a household misses a scheduled interview appointment, it is the household's responsibility for rescheduling. **To the extent practicable, the State agency must accommodate the applicant.** SNAP-ONLY EXCEPTION: SNAP applicants must be given a scheduled interview when it is not feasible to conduct an interview on the date the application is made. **Any special needs such as, but not limited to, the applicant's work schedule, must be accommodated.** [Emphasis added] (See also, 7 CFR §273.2(e)(2))

DISCUSSION

Policy requires that SNAP recipients undergo periodic reviews to determine continued eligibility. As part of the redetermination process, a SNAP recipient must complete and return a SNAP review form and complete a telephone interview prior to the expiration of his or her SNAP certification date. The Appellant completed and returned his SNAP review form and needed to complete his telephone interview which was scheduled for September 10, 2021. The Respondent's worker attempted to call the Appellant's phone number listed on the review form and in his case record, but a message that the phone was "not in service" was received by the worker. A notification of missed appointment and closure of SNAP benefits was sent to the Appellant on September 13, 2021. The Respondent set another telephone interview appointment for October 1, 2021. However, the Respondent's worker again was unable to reach the Appellant using the same telephone number which was identified as not being in service in the Appellant's case comments. The Appellant came into the local office on October 5, 7 and 8 in an attempt to complete his SNAP review. On October 6, 2021, the Appellant was sent notification of SNAP benefit closure due to not completing his telephone interview. The Appellant appeals the Respondent's decision to close his SNAP benefits.

As part of the SNAP benefit redetermination, policy requires that an interview be completed. If a client is unable to attend the scheduled interview appointment, another date and time is to be scheduled. Policy requires that to the extent practicable, a client be given reasonable accommodations to complete the interview process. **Failure by the client** to complete a redetermination will result in termination of benefits.

The evidence presented showed that the failure to complete a redetermination was not the fault of the Appellant as he made several attempts to complete his SNAP redetermination. Instead, the failure to complete a redetermination was due to cell phone connectivity issues and the Department's failure to provide the Appellant a practicable accommodation to assist him in completing the interview portion of the SNAP redetermination process.

The Respondent's workers attempted to reach the Appellant several times on the number provided which was the same number identified in the Appellant's case comments as not being in service. The Appellant convincingly testified that he has been up-to-date with his cell phone bills and has not had any other issues with his cell phone service. The Appellant visited his local DHHR office on October 5, 7 and 8 in an attempt to complete his interview. Unfortunately, the local office made no attempt other than repeating the same act of calling the Appellant's phone number which was known to be inaccessible.

The Respondent's representative, Peter VanKleeck, testified that due to COVID-19 protocols there are no face-to-face interviews. Nonetheless, the Respondent's workers had the responsibility to find a practicable accommodation for the Appellant to assist him with completing his policy-required interview. The evidence showed that there were case notes explaining that the Appellant could not be reached through the number listed. A practicable accommodation in this case could have easily been made by allowing the Appellant access to an available room at the local office where he could be called by a worker or allow the Appellant to call a worker at a set time if no room was available. Unfortunately, no one at the local office attempted to assist the Appellant in resolving this issue. Instead, the Appellant's benefits were terminated citing the Appellant's failure to complete the policy-required telephone interview.

Although the Appellant had not completed the required interview for SNAP redetermination of eligibility, it was not through his own failure. Policy states that failure by a client to complete a redetermination will result in termination of benefits. However, policy also requires that to the extent practicable, the Respondent should accommodate a client to complete the interview process. As the incompleteness of the redetermination was not due to the Appellant's failure and as the Respondent failed to provide a practicable accommodation to assist the Appellant, the decision to terminate the Appellant's SNAP benefits due to failure to complete a telephone interview cannot be affirmed.

CONCLUSIONS OF LAW

- 1) The SNAP redetermination process requires that an interview be completed.
- 2) Failure by the client to complete the redetermination process, results in SNAP benefit termination.
- 3) The Respondent must provide to the extent practicable, an accommodation to assist a client with completing the policy-required interview for SNAP redetermination.
- 4) The Appellant attempted to complete the policy-required interview by visiting his local office on three different occasions.

- 5) Because the non-completion of the redetermination process was not due to the failure by the Appellant, and the fact that the Respondent made no accommodation to assist the Appellant with completing his policy-required interview, the Respondent's decision to terminate the Appellant's SNAP benefits cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to terminate the Appellant's SNAP benefits based on the Appellant's failure to complete a required telephone or face-to-face interview. The matter is **REMANDED** for the Respondent to find a reasonable accommodation to assist the Appellant in completing the required interview for his SNAP redetermination with benefits retroactive to November 1, 2021, if found eligible.

ENTERED this 10th day of November, 2021.

Lori Woodward, Certified State Hearing Officer