



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review**

**Jeffrey H. Coben, MD
Interim Cabinet Secretary**

**Sheila Lee
Interim Inspector General**

March 23, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 23-BOR-1265

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Cindy Bell, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 23-BOR-1265

**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 March 14, 2023.

The matter before the Hearing Officer arises from the decision by the Respondent to prorate Supplemental Nutrition Assistance Program (SNAP) benefits for February 2023.

At the hearing, the Respondent appeared by Cindy Bell, 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 Notice of Decision dated February 13, 2023
- D-2 Case Comments dated January 5, 2023
- D-3 Case Comments dated February 6, 2023- February 23, 2023

Appellant's Exhibits:

- A-1 Statement from ██████████ received by Respondent on January 6, 2022
- A-2 Letter from Social Security Administration dated February 6, 2023

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 applied for Supplemental Nutrition Assistance Program (SNAP) benefits on January 5, 2023 (Exhibit D-2).
- 2) The Appellant was approved for an expedited service SNAP allotment for January 2023 because he had zero income (Exhibit D-2).
- 3) The Appellant was asked to provide a rent receipt for ongoing SNAP benefits; however, there is no evidence that he was issued a verification checklist specifying what documentation was needed or when the information was due (Exhibit D-2).
- 4) The Appellant provided a letter from [REDACTED] on January 6, 2023, to verify that his program fee at the facility was \$500. There was no breakdown of the specific services incorporated in the program fee (Exhibit A-1).
- 5) The Appellant's SNAP benefits were terminated effective February 2023.
- 6) There is no evidence to demonstrate that the Appellant was issued notification of the SNAP benefit closure.
- 7) On February 6, 2023, the Appellant inquired about why he had not received his February 2023 SNAP benefits (Exhibit D-3).
- 8) The Appellant was informed on February 6, 2023, that he needed to reapply for SNAP benefits (Exhibit D-3).
- 9) The Appellant reapplied for SNAP benefits on February 6, 2023, and his application was approved. At that time, the worker indicated that the \$500 program fee to [REDACTED] included shelter and utilities (Exhibit D-3).
- 10) The Appellant had been incarcerated prior to his January 2023 SNAP application, and his Social Security disability income was reinstated upon his release from jail. The Appellant's Social Security income resumed effective February 2023; however, his first payment was not received until March 3, 2023 (Exhibit A-2).
- 11) The Appellant received zero income for February 2023.
- 12) The Appellant received gross Social Security income of \$739 beginning March 2023 (Exhibit A-2).
- 13) The Appellant's SNAP benefits were prorated from February 6, 2023 (the date of reapplication), and he received \$154 in SNAP benefits for the month of February 2023.

APPLICABLE POLICY

Code of Federal Regulations 7 CFR 273.2(a) 2 states that the SNAP application process includes filing and completing an application form, being interviewed and having certain information verified. The State agency must act promptly on all applications and provide SNAP benefits retroactive to the month of application to those households that have completed the application process and have been determined eligible... The state must make expedited service available to households in immediate need.

West Virginia Income Maintenance Manual Chapter 1.4.16.C.1 provides the following information regarding SNAP benefits and expedited service:

Only verification of identity is required prior to approval for Expedited Service. Verification of standard eligibility requirements is temporarily postponed unless verification can occur within the Expedited Service time frame. Eligibility requirements must be met prior to approval, even though routine verification is temporarily postponed for Expedited Service. This does not mean that eligibility requirements are waived prior to approval, only that the routine verification of them is postponed. This also applies to the verification of and the application for a Social Security Number (SSN). All reasonable efforts must be made to meet all routine verification requirements prior to approval. See Chapter 7. Postponed verification must be received prior to the second issuance.

West Virginia Income Maintenance Manual Chapter 1.2.5 states that a worker is responsible for providing a program applicant with a list of verifications needed to determine eligibility, using form DFA-6 or the verification checklist. The applicant must also be told the penalty for failure to provide the verifications and what he must do if he finds he cannot obtain the verifications by the deadline.

West Virginia Income Maintenance Manual Chapter 1.2.10.A states that when a SNAP application has been made and requested information is not received, according to the time limits established in Section 1.4, the client must not be made to complete a new application if the information is returned within 60 days of the original application date. However, if the application was denied due to income or any other circumstances other than requested verification, the applicant must reapply.

West Virginia Income Maintenance Manual Chapter 9.3.1.A states that the termination of SNAP benefits is an adverse action that requires advance notice to a SNAP recipient.

West Virginia Income Maintenance Manual Chapter 9.3.1.C states that the 13-day adverse action advance notice period begins with the date shown on the notification letter. It ends after the 13th calendar day has elapsed. If the 13-day notice period ends on a weekend or holiday, the action is taken on the first subsequent workday.

DISCUSSION

Policy states that when a SNAP application has been made and requested information is not received, according to the time limits established in Section 1.4, the client must not be made to complete a new application if the information is returned within 60 days of the original application date. A worker is responsible for providing a program applicant with a list of verifications needed to determine eligibility, using form DFA-6 or the verification checklist. The applicant must also be told the penalty for failure to provide the verifications and what he must do if he finds he cannot obtain the verifications by the deadline. Policy specifies that termination of SNAP benefits is an adverse action that requires advance notice to the benefit recipient.

The Appellant was approved for expedited service SNAP benefits on January 5, 2023, and was asked to verify his shelter expense prior to his February 2023 issuance. The Appellant provided a statement regarding his program fee at [REDACTED] on January 6, 2023; however, the statement did not specify what services were covered under the \$500 fee. There is no evidence to demonstrate that a verification checklist was issued to the Appellant specifying a due date for additional information, and it is unclear whether the Appellant was asked to provide further documentation concerning items covered under the program fee. The Appellant's benefits were terminated, and he did not receive his February 2023 SNAP allotment; however, there is no evidence that the Appellant was issued the required notice of closure.

The Appellant testified that when he inquired about the status of his benefits on February 6, 2023, he was informed that the worker could not find a record of his January 2023 application and he would need to complete a new SNAP application. The Department worker cited the [REDACTED] program fee in Case Comments and indicated that a landlord statement had been provided. The Appellant's SNAP benefits were prorated from the new application date of February 6, 2023.

Cindy Bell, Economic Service Worker for the Respondent, testified that the Respondent erred in requiring the Appellant to reapply for SNAP benefits in February 2023. Ms. Bell indicated that confusion ensued because of different case numbers for the Appellant in the Respondent's computer system. Ms. Bell stated that the Respondent would restore benefits due to the Appellant for the period of February 1, 2023-February 5, 2023, as a result of the error.

Evidence provided by the Respondent reveals that the Appellant satisfied verification requirements and was not required to complete a new SNAP application on February 6, 2023, as the requested information was returned within 60 days of the original application date. Therefore, the Appellant's SNAP allotment should be restored for the five-day period of February 1, 2023-February 5, 2023.

It should be noted that the Appellant did not receive his reinstated Social Security benefits until March 3, 2023, as indicated by the Appellant and as noted in his award letter from the Social Security Administration. Therefore, his Social Security income should not have been considered in the SNAP benefit calculation for the month of February 2023. The Respondent must recalculate February 2023 benefits based on zero income and issue auxiliary benefits as necessary.

CONCLUSIONS OF LAW

- 1) Policy requires that SNAP recipients be issued advance notice of adverse action taken on a SNAP case.
- 2) There is no evidence that the Respondent issued advance notice to inform the Appellant that his SNAP benefits would be terminated effective February 2023.
- 3) Policy requires that a verification checklist be issued when additional information is required for a SNAP application.
- 4) There is no evidence that a verification checklist was issued to the Appellant at the time of his January 5, 2023 SNAP application.
- 5) Policy stipulates that a client is not required to complete a new SNAP application if requested information is returned within 60 days of the original application date.
- 6) The Respondent erroneously required the Appellant to reapply for SNAP benefits on February 6, 2023.
- 7) The Appellant is entitled to SNAP benefits for the full month of February 2023.
- 8) As the Appellant had no income in February 2023, the Respondent's SNAP benefit calculation for February 2023 was incorrect.

DECISION

It is the decision of the State Hearing Officer to REVERSE the Respondent's action to issue prorated SNAP benefits for the month of February 2023. The case is REMANDED to the Respondent for recalculation of the Appellant's February 2023 SNAP benefits (based on zero income) and the issuance of auxiliary benefits as necessary.

ENTERED this 23rd day of March 2023.

**Pamela L. Hinzman
State Hearing Officer**