



**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 22, 2023



RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-1308

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Rena Lawless, [REDACTED] DHHR

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

[REDACTED]

Appellant,

v.

Action Number: 23-BOR-1308

**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 Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on March 21, 2023, on an appeal filed March 1, 2023.

The matter before the Hearing Officer arises from the February 14, 2023, decision by the Respondent to deny the Appellant's request for a replacement of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Rena Lawless, Economic Services Supervisor. The Appellant was self-represented. The witnesses were sworn, and the following documents were admitted into evidence.

Department's Exhibits:

None

Appellant's Exhibits:

- A-1 Email from Appellant to Respondent dated February 8, 2023
- A-2 Email from Appellant to Respondent dated February 17, 2023
- A-3 Photographs of Food Purchased with SNAP Benefits
- A-4 Email from Appellant to [REDACTED] dated March 20, 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 is a recipient of SNAP benefits.
- 2) On January 31, 2023, the Appellant requested a SNAP benefit replacement for food that was purchased with SNAP benefits that was destroyed during a power outage on January 25, 2023.
- 3) The Respondent sent a verification request letter to the Appellant on February 1, 2023, requesting that the Appellant provide proof of the power outage by February 13, 2023.
- 4) The SNAP replacement was denied on February 14, 2023, when the Appellant had not provided verification of the power outage.

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §274.6 details SNAP benefit replacement:

(a) Providing replacement issuance

(1) Subject to the restrictions in paragraph (a)(3) of this section, State agencies shall provide replacement issuances to a household when the household reports that food purchased with Program benefits was destroyed in a household misfortune.

(3) Replacement restrictions

(i) Replacement issuances shall be provided only if a household timely reports a loss orally or in writing. The report will be considered timely if it is made to the State agency within 10 days of the date food purchased with Program benefits is destroyed in a household misfortune.

(iii) Except for households certified under 7 CFR part 280, replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value.

(4) Household statement of loss

(i) 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.

(ii) 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.

(ii) Prior to replacing destroyed food that was purchased with Program benefits, the State agency shall determine that the destruction occurred in a household misfortune or disaster, such as, but not limited to, a fire or flood. This shall be verified through a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or a home visit.

West Virginia Income Maintenance Manual §12.2 explains SNAP benefit replacement procedures:

12.2.1.A.1 Destroyed Food – Replacement Procedures

In cases when food purchased with SNAP is destroyed in a household misfortune or disaster, the assistance group (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. During a mass power outage, verification of the outage is self-attested. The Worker replaces the value of the food using the appropriate eligibility system procedure.

DISCUSSION

Federal regulation and agency policy state that SNAP benefits may be replaced when a household reports that food purchased with SNAP benefits was destroyed in a household misfortune. A household misfortune is defined as a natural disaster, fire or loss of power. The disaster or misfortune must be verified.

The Appellant requested a SNAP benefit replacement on January 31, 2023, for food that was destroyed during a power outage that occurred on January 25, 2023. The Respondent denied the Appellant's benefit replacement request when he failed to provide verification of the power outage.

The Appellant testified that he has contacted his electric company several times requesting verification of his power outage since receiving the verification request from the Respondent. The Appellant stated that verification was to be sent directly to the Respondent and he could not understand why the information had not been received.

The representative for the Respondent testified that a caseworker attempted to independently

verify the power outage on February 13, 2023, but the electric company could not confirm that the Appellant experienced a power outage on January 25, 2023.

Whereas the Appellant was unable to verify that his household had a power outage on January 25, 2023, that resulted in a loss of food purchased with SNAP benefits, the Respondent's decision to deny his request for a benefit replacement is affirmed.

CONCLUSIONS OF LAW

- 1) Federal regulations and agency policy require that a household misfortune that resulted in the loss of food purchased with SNAP benefits must be verified.
- 2) The Appellant failed to provide verification of a power outage by the deadline established by the Respondent.
- 3) The Respondent correctly followed policy and regulations in the denial of the Appellant's request for a SNAP benefit replacement.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's denial of a SNAP benefit replacement for the Appellant.

ENTERED this 22nd day of March 2023.

Kristi Logan
Certified State Hearing Officer