



**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**

April 18, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-1423

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: Margaret Fain, [REDACTED] DHHR

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

██████████,

Appellant,

v.

Action Number: 23-BOR-1423

**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 April 18, 2023, on an appeal filed March 24, 2023.

The matter before the Hearing Officer arises from the March 20, 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 Margaret Fain, Economic Services Supervisor. The Appellant was self-represented. The witnesses were sworn in, and the following documents were admitted into evidence.

Department's Exhibits:

None

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 Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant is a recipient of SNAP benefits.
- 2) The Appellant contacted the Respondent's Customer Service Center on March 16, 2023, to report that her electricity had been out for several days.
- 3) The Appellant submitted a DFA-SNAP-36 to the Respondent on March 20, 2023, requesting a SNAP benefit replacement for food that was destroyed during the power outage.
- 4) The Appellant reported the date of the power outage on the DFA-SNAP-36 as March 4, 2023.
- 5) The Respondent denied the Appellant's request for the SNAP benefit replacement as the request was not made within ten (10) days of the loss of power.

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 loss must be reported within 10 days of the date food purchased with SNAP benefits is destroyed in a household misfortune.

The Appellant testified that she was unable to remain in her home while her power was out, which was not restored until March 16. The Appellant contended that she was unable to assess how much food she had lost until she returned home on March 16, at which time she reported the loss to the Respondent.

The Appellant failed to timely report the loss of food due to the power outage. Although the Appellant claimed she was unaware of how much food was lost due to the power outage until she returned home, it is a reasonable deduction that the Appellant lost all of her food during a twelve (12) day power outage and the loss could have been reported sooner.

Whereas the Appellant failed to report food that was purchased with SNAP benefits was destroyed in a household misfortune within 10 days, the Respondent's decision to deny her request for a benefit replacement is affirmed.

CONCLUSIONS OF LAW

- 1) Federal regulations and agency policy state that a loss of food purchased with SNAP benefits must be reported within 10 days of the date it is destroyed in a household misfortune for the approval of a benefit replacement.
- 2) The Appellant lost power on March 4, 2023.
- 3) The Appellant did not report the power outage until March 16, 2023.
- 4) The Respondent correctly followed policy and federal regulation 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 18th day of April 2023

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Kristi Logan
Certified State Hearing Officer