



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

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

**Sheila Lee  
Interim Inspector General**

April 20, 2023



RE: [REDACTED] v. WVDHHR  
BOR ACTION NO.: 23-BOR-1420

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,

Eric L. Phillips  
State Hearing Officer  
Member, State Board of Review

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

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

██████████,

**Appellant,**

v.

**Action Number: 23-BOR-1420**

**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 19, 2023, on an appeal filed March 23, 2023.

The matter before the Hearing Officer arises from the March 7, 2023 decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Peter Van Kleeck, Family Support Specialist. The Appellant appeared by his Attorney-In-Fact, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1   Hearing Summary
- D-2   Verification Checklist dated February 15, 2023
- D-3   West Virginia Income Maintenance Manual Chapter 7
- D-4   Shelter Cost Verification dated February 16, 2023
- D-5   Notice of Decision dated March 7, 2023
- D-6   Shelter Cost Verification dated March 10, 2023
- D-7   Notice of Decision dated March 15, 2023
- D-8   West Virginia Income Maintenance Manual § 10.42.5

**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 was a recipient of SNAP benefits in the monthly amount of \$191.00.
- 2) On February 15, 2023, the Appellant completed a recertification for SNAP benefits.
- 3) On February 15, 2023, the Respondent issued a Verification Checklist (Exhibit D-2) to the Appellant requesting a dated written statement from his landlord, which included his rent amount, the landlord's name, and telephone number. This information was due to the Respondent by February 26, 2023. (Exhibit D-2)
- 4) On February 16, 2023, the Appellant provided a written statement from his father, indicating that he pays \$600.00 per month in rent. The verification did not include the landlord's phone number. (Exhibit D-4)
- 5) The Respondent removed the Appellant's shelter cost deductions due to the incomplete verification.
- 6) On March 7, 2023, the Respondent issued a notice to the Appellant informing him that his SNAP benefits would decrease to \$23.00 per month, effective April 1, 2023, due to the removal of the shelter deduction. (Exhibit D-5)
- 7) On March 10, 2023, the Appellant provided an updated written statement regarding his rent which included the landlord's telephone number. (Exhibit D-6)
- 8) On March 15, 2023, the Respondent issued a notice to the Appellant informing him that his SNAP benefits would increase from \$23.00 per month to \$148.00 per month indicating "your deduction for shelter and/or utility cost is higher."

**APPLICABLE POLICY**

West Virginia Income Maintenance Manual § 7.25 documents in pertinent part:

Shelter Expenses for SNAP are verified at each application and redetermination, or when an individual reports a change of shelter expense.

Possible Sources of Verification: Acceptable verification must include the name and phone number of the landlord, the obligation amount, and the actual paid amount. Shelter expense verifications do not require a landlord's signature.

Acceptable verification is not limited to any single type of document and is obtained from the household or other source. When the customer cannot obtain information from a primary source of verification, the worker can then accept a secondary source.

When a customer cannot obtain any verification of shelter expense, it is necessary for the worker to obtain a shelter attestation form from the customer.

If a lease or rental agreement provided by the customer is older than 1 year, the customer must also complete a shelter attestation form. The worker must provide or mail the shelter attestation form to the customer to complete and must record why the shelter attestation form was used.

#### Primary Sources of Verification

- Current lease/rental agreements within 1 year of the application/review date.

- Document of official letterhead from an office or agency. This includes offices or agencies working on behalf of the landlord.

- HUD contracts/renewals

- Handwritten notes/letter

- Rent receipts/Money Orders

#### **Code of Federal Regulations 7 CFR 273.3 (F) documents in pertinent part:**

**Verification.** Verification is the use of documentation or a contact with a third party to confirm the accuracy of statements or information. The State agency must give households at least 10 days to provide required verification. [Paragraph \(i\)\(4\)](#) of this section contains verification procedures for expedited service cases.

#### **Code of Federal Regulations 7 CFR 273.3 (I) documents in pertinent part:**

*Sources of verification —*

(i) **Documentary evidence.** State agencies shall use documentary evidence as the primary source of verification for all items except residency and household size. These items may be verified either through readily available documentary evidence or through a collateral contact, without a requirement being imposed that documentary evidence must be the primary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Examples of documentary evidence include wage stubs, rent receipts, and utility bills. Although documentary evidence shall be the primary source of verification, acceptable verification shall not be limited to any single type of document and may be obtained through the household or other source. Whenever documentary evidence cannot be obtained or is insufficient to make a firm determination of eligibility or benefit level, the eligibility worker may require collateral contacts or home visits. For example, documentary evidence may be considered insufficient when the household presents pay stubs which do not represent an accurate picture of the household's income (such as outdated pay stubs) or identification papers that appear to be falsified.

(ii) **Collateral contacts.** A collateral contact is an oral confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made either in person or over the telephone. The State agency may select a collateral contact if the household fails to designate one or designates one which is unacceptable to the State agency. Examples of acceptable collateral contacts may include employers, landlords, social service agencies, migrant service agencies, and neighbors of the household who can be expected to provide accurate third-party verification. When talking with collateral contacts, State agencies should disclose only the information that is absolutely necessary to get the information being sought. State agencies should avoid disclosing that the household has applied for SNAP benefits, nor should they disclose any information supplied by the household, especially information that is protected by [§ 273.1\(c\)](#), or suggest that the household is suspected of any wrong doing.

(iii) **Home visits.** Home visits may be used as verification only when documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or cannot be obtained, and the home visit is scheduled in advance with the household. Home visits are to be used on a case-by-case basis where the supplied documentation is insufficient. Simply because a household fits a profile of an error-prone household does not constitute lack of verification. State agencies shall assist households in obtaining sufficient verification in accordance with [paragraph \(c\)\(5\)](#) of this section.

(iv) **Discrepancies.** Where unverified information from a source other than the household contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to a determination of eligibility or benefits. The State agency may, if it chooses, verify the information directly and contact the household only if such direct verification efforts are unsuccessful. If the unverified information is received through the IEVS, as specified in [§ 272.8](#), the State agency may obtain verification from a third party as specified in [paragraph \(f\)\(9\)\(v\)](#) of this section.

(v) **Homeless households.** Homeless households claiming actual shelter expenses or those with extremely low shelter costs may provide verification of their shelter expenses to qualify for the homeless shelter deduction if the State agency has such a deduction. If a homeless household has difficulty in obtaining traditional types of verification of shelter costs, the caseworker shall use

prudent judgment in determining if the verification obtained is adequate. For example, if a homeless individual claims to have incurred shelter costs for several nights and the costs are comparable to costs typically incurred by homeless people for shelter, the caseworker may decide to accept this information as adequate information and not require further verification.

**(5) *Responsibility of obtaining verification.***

(i) The household has primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information. The State agency must assist the household in obtaining this verification provided the household is cooperating with the State agency as specified under [paragraph \(d\)\(1\)](#) of this section. Households may supply documentary evidence in person, through the mail, by facsimile or other electronic device, or through an authorized representative. The State agency must not require the household to present verification in person at the SNAP office. The State agency must accept any reasonable documentary evidence provided by the household and must be primarily concerned with how adequately the verification proves the statements on the application. However, the State agency has primary responsibility for verifying fleeing felon and parole or probation violator status in accordance with [§ 273.11\(n\)](#). If a SNAP applicant's attestation regarding disqualified felon status described in [§ 273.2\(o\)](#) is questionable, the State agency shall verify the attestation. Each element of a questionable attestation—that the individual has been convicted of a crime listed at [§ 273.11\(s\)](#), and that the individual is not in compliance with the terms of their sentence—shall be verified by the State agency. The State agency shall determine whether an attestation is questionable based on the standards established under [§ 273.2\(f\)\(2\)\(i\)](#). In conducting verifications of questionable attestations under this paragraph, the State agency shall establish reasonable, consistent standards, evaluate each case separately, and document the case file accordingly.

(ii) Whenever documentary evidence is insufficient to make a firm determination of eligibility or benefit level, or cannot be obtained, the State agency may require a collateral contact or a home visit in accordance with [paragraph \(f\)\(4\)](#) of this section. The State agency, generally, shall rely on the household to provide the name of any collateral contact. The household may request assistance in designating a collateral contact. The State agency is not required to use a collateral contact designated by the household if the collateral contact cannot be expected to provide an accurate third-party verification. When the collateral contact designated by the household is unacceptable, the State agency shall either designate another collateral contact, ask the household to designate another collateral contact or to provide an alternative form of verification, or substitute a home visit. The State agency is responsible for obtaining verification from acceptable collateral contacts.

**(6) *Documentation.*** Case files must be documented to support eligibility, ineligibility, and benefit level determinations. Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination.

**(7) *State Data Exchange and Beneficiary Data Exchange.*** The State agency may verify SSI benefits through the State Data Exchange (SDX), and Social Security benefit information through the Beneficiary Data Exchange (BENDEX), or through verification provided by the household. The State agency may use SDX and BENDEX data to verify other SNAP eligibility criteria. The State agency may access SDX and BENDEX data without release statements from households,

provided the State agency makes the appropriate data request to SSA and executes the necessary data exchange agreements with SSA. The household shall be given an opportunity to verify the information from another source if the SDX or BENDEX information is contradictory to the information provided by the household or is unavailable. Determination of the household's eligibility and benefit level shall not be delayed past the application processing time standards of [paragraph \(g\)](#) of this section if SDX or BENDEX data is unavailable.

**(8) *Verification subsequent to initial certification* —**

**(i) *Recertification***

(A) At recertification the State agency shall verify a change in income if the source has changed or the amount has changed by more than \$50. Previously unreported medical expenses, actual utility expenses and total recurring medical expenses which have changed by more than \$25 shall also be verified at recertification. The State agency shall not verify income if the source has not changed and if the amount is unchanged or has changed by \$50 or less, unless the information is incomplete, inaccurate, inconsistent or outdated. The State agency shall also not verify total medical expenses, or actual utility expenses claimed by households which are unchanged or have changed by \$25 or less, unless the information is incomplete, inaccurate, inconsistent or outdated. For households eligible for the child support deduction or exclusion, the State agency may use information provided by the State CSE agency in determining the household's legal obligation to pay child support, the amount of its obligation and amounts the household has actually paid if the household pays its child support exclusively through its State CSE agency and has signed a statement authorizing release of its child support payment records to the State agency. A household would not have to provide any additional verification unless they disagreed with the information provided by the State CSE agency. State agencies that choose to use information provided by their State CSE agency in accordance with this [paragraph \(f\)\(8\)\(i\)\(A\)](#) must specify in their State plan of operation that they have selected this option. For all other households eligible for the child support deduction or exclusion, the State agency shall require the household to verify any changes in the legal obligation to pay child support, the obligated amount, and the amount of legally obligated child support a household member pays to a non-household member. The State agency shall verify reportedly unchanged child support information only if the information is incomplete, inaccurate, inconsistent or outdated.

(B) Newly obtained social security numbers shall be verified at recertification in accordance with verification procedures outlined in [§ 273.2\(f\)\(1\)\(v\)](#).

(C) For individuals subject to the SNAP time limit of [§ 273.24](#) who are satisfying the work requirement by working, by combining work and participation in a work program, or by participating in a work program that is not operated or supervised by the State agency, the individuals' work hours shall be verified.

(D) Other information which has changed may be verified at recertification. Unchanged information shall not be verified unless the information is incomplete, inaccurate, inconsistent or outdated. Verification under this paragraph shall be subject to the same verification procedures as apply during initial verification.

(ii) **Changes.** Changes reported during the certification period shall be subject to the same verification procedures as apply at initial certification, except that the State agency shall not verify changes in income if the source has not changed and if the amount has changed by \$50 or less, unless the information is incomplete, inaccurate, inconsistent or outdated. The State agency shall also not verify total medical expenses or actual utility expenses which are unchanged or have changed by \$25 or less, unless the information is incomplete, inaccurate, inconsistent or outdated.

## **DISCUSSION**

Shelter expenses are to be verified at each application, redetermination, or when an individual reports a change of shelter expense. Those verifications must include the name and phone number of the landlord, the obligation amount, and the actual payment amount. In February 2023, the Appellant completed a recertification for SNAP benefits and was required to verify his shelter expenses. When the Appellant failed to provide a complete shelter cost verification, the Respondent removed the Appellant's shelter cost deduction which resulted in a decrease to the Appellant's SNAP benefits. The Respondent had to prove by a preponderance of the evidence that the Appellant failed to correctly verify his shelter expenses.

The Appellant completed a redetermination for SNAP benefits in which he was required to verify his shelter cost expense. On February 16, 2023, the Appellant provided verification of his \$600.00 per month rent expenses to his father, but the verification failed to list the landlord's phone number. (Exhibit D-4) The Respondent considered the verification as incomplete and reduced the Appellant's SNAP benefits to \$23.00 per month effective with the recertification cycle start month of March 2023. (Exhibit D-5) Upon receipt of the subsequent reduction notice, the Appellant provided an updated shelter cost verification on March 10, 2023 (Exhibit D-6), which included the landlord's phone number. The inclusion of the shelter cost deduction increased the Appellant's SNAP benefits to \$148.00, effective April 1, 2023. Peter Van Kleeck, Family Support Specialist cited the West Virginia Income Maintenance Manual § 10.4.3 "if the next issuance date is more than 10 days after the date the change is reported, the change is effective the month following the report month" in regard to the timeliness of updated shelter cost verification and the increase of SNAP benefit for April 2023".

██████████, the Appellant's Attorney-In-Fact, acknowledged that the initial shelter cost verification submission was incomplete, but contends the Respondent's lack of communication regarding the status of her son's SNAP benefits contributed to the delay in providing complete verification. ██████████ indicated that she telephoned the local office on February 23, 2023, regarding the reduction of her son's SNAP benefits and did not receive a return phone call within 48 hours as the Respondent's local office mandates. ██████████ contends that if the local office maintained communication, a complete shelter verification would have been returned prior to February 25, 2023.

Verifications are utilized to determine the accuracy of statements or information reported during SNAP applications and recertifications. Policy requires that shelter cost verifications must include the name of the landlord, phone number of the landlord, and the obligation amount of the expense, and the paid amount of the expense. The Appellant failed to provide a complete verification of his



shelter cost expenses which resulted in the removal of a shelter cost deduction and reduction of SNAP benefit. Because the submitted shelter cost verification did not include the necessary information as required by policy, the Respondent's action to reduce the Appellant's SNAP benefit is affirmed.

### **CONCLUSIONS OF LAW**

- 1) For SNAP purposes, shelter expenses are verified at each application and redetermination, or when an individual reports a change of shelter expense.
- 2) Shelter expense verifications must include the landlord's name, telephone number, obligation amount, and paid amount.
- 3) The Appellant failed to provide a complete shelter expense verification; therefore, his shelter cost deduction was removed resulting in the reduction of SNAP benefits for March 2023.
- 4) The Respondent correctly reduced the Appellant's SNAP benefit for March 2023.

### **DECISION**

It is the decision of the State Hearing Officer to uphold the decision of the Respondent to reduce the Appellant's SNAP benefits for March 2023.

**ENTERED this \_\_\_\_ day of April 2023.**

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**Eric L. Phillips  
State Hearing Officer**