



**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 28, 2023



RE: [REDACTED] v. WVDHHR
ACTION NOS.: 23-BOR-1496 and 23-BOR-1497

Dear [REDACTED]:

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matters.

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,

Tara B. Thompson, MLS
State Hearing Officer
Member, State Board of Review

Encl: Decision Recourse
Form IG-BR-29

CC: Lisa Ward, [REDACTED] DHHR

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

[REDACTED],

Appellant,

v.

**Action Numbers: 23-BOR-1496 and
23-BOR-1497**

**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 April 24, 2023.

The matter before the Hearing Officer arises from the Respondent's March 24, 2023 decisions to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits and deny the Appellant eligibility for Low Income Energy Assistance Program (LIEAP) benefits.

At the hearing, the Respondent appeared by James Falter, [REDACTED] DHHR. The Appellant appeared *pro se*. Both participants were sworn in and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
Hearing Requests, dated March 28, 2023
- D-2 Verification Checklist, mailing date February 27, 2023
Verification Checklist, mailing date February 29, 2023
- D-3 Notices, dated March 24, 2023
- D-4 Application for LIEAP, scanned December 15, 2022
- D-5 West Virginia Income Maintenance Manual (WVIMM) Policy Excerpts

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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) On March 24, 2023, the Respondent issued a notice advising the Appellant her application for LIEAP eligibility was denied because the Appellant failed to verify, “proof of the start date of employment,” and “proof of gross earned income, such as paystubs/employer statements” (Exhibit D-3).
- 2) On March 24, 2023, the Respondent issued a notice advising the Appellant’s SNAP benefits would end after April 30, 2023 because “you did not turn in all requested information” and “you did not provide all needed information” (Exhibit D-3).
- 3) The March 24, 2023 SNAP termination notice specified that the Appellant failed to verify, “proof of the start date of employment,” “proof of gross earned income, such as paystubs/employer statement,” and “Rent/Lot-Rent/Lease” (Exhibit D-3).
- 4) On December 15, 2022, the Respondent scanned the Appellant’s application for LIEAP into the Appellant’s case (Exhibit D-4).
- 5) On February 27, 2023, the Respondent received “another lieap [sic] app on 1/31” (Exhibit D-5).
- 6) The Appellant indicated on her application that she received “about \$1,410” gross monthly income from [REDACTED] (Exhibit D-4).
- 7) The Respondent’s record reflected the Appellant’s income from [REDACTED] (Exhibit D-5).
- 8) On February 27 and February 28, 2023, the Respondent issued a Verification Checklist requesting the Appellant submit an account number for [REDACTED], by March 14, 2023, to determine the Appellant’s LIEAP eligibility (Exhibit D-2).
- 9) The February 27, 2023 Verification Checklist provided a general list of acceptable documentation for verifying income, shelter and utilities, child support, dependent care, and identity.
- 10) The Appellant did not submit an account number for [REDACTED] by March 14, 2023.
- 11) On February 28, 2023, the Respondent issued a Verification Checklist requesting the Appellant submit verification, “Has anyone refused, lost, or quit employment or training in the last 60 days?” by March 9, 2023, to determine the Appellant’s SNAP eligibility (Exhibit D-2).

- 12) The February 28, 2023 Verification Checklist provided a list of acceptable documentation including a written statement from [REDACTED] indicating the date the Appellant was no longer employed and all [REDACTED] pays for December 2022.
- 13) The Appellant did not submit proof of the start date of employment, by March 9, 2023 (Exhibit D-5).
- 14) The February 27 and February 28, 2023 Verification Checklist instructed “You must get the information to our office by the due date. If you do not, your benefits may be denied or closed (Exhibit D-2).
- 15) The acceptable documentation lists did not provide a due date to submit verification.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 1.2.2.C provides in pertinent parts:

A review may be conducted at any time on a single or combination of questionable eligibility factor(s). The case maintenance process may involve a review or activities that update the Department’s information about the client’s circumstances between redeterminations. Changes in eligibility or the benefit amount may occur.

WVIMM §§ 7.2.1 and 7.2.4 provide in pertinent parts:

Verification of a client’s statement is required when the information provided is inconsistent with other information in the case file. Anytime a DFA-6 is used, the Worker must list all required verification known at the time.

U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) and West Virginia Income Maintenance Manual (WVIMM) Chapter 4, Appendix A provide in pertinent parts:

For non-categorically eligible households, the AG must meet both the gross and net income limits to be eligible for SNAP. For a one-person AG, the Appellant’s gross monthly income had to be equal to or below 130% of the Federal Poverty Level (FPL).

For a one-person AG, 130% of the FPL is \$1,473.

WVIMM § 10.4.2.B.2 provides in pertinent parts:

Communication from an AG member — such as an office visit, telephone call, or written statement to report a change for any program of assistance in the eligibility assistance — require follow-up and/or action for all AGs.

Code of Federal Regulations (CFR) 7 CFR § 273.2(f) provides in the pertinent parts:

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 the required verification.

Code of Federal Regulations (CFR) 7 CFR § 273.2(f)(2)(i) provides in the pertinent parts:

The state shall verify ... factors of eligibility which the State agency determines are questionable and affect the household's eligibility and benefit level.

WVIMM § 10.4.2 provides in pertinent parts:

All SNAP assistance groups (AGs) must report changes related to eligibility and benefit amount at application When reported information results in a change in benefits and additional or clarifying information is needed, the Worker must first request the information by using the DFA-6 or verification checklist. If the client does not provide the information within the time frame specified by the Worker, appropriate action is taken after advance notice.

Code of Federal Regulations 45 CFR § 96.8(b)(6) provides in pertinent part:

Low-income households: means federally eligible (federally qualified) households meeting the standards for Low-income Home Energy Assistance Program (LIEAP) income eligibility.

WVIMM § 21.3.1.F provides in pertinent parts:

To be eligible for LIEAP, the customer must provide a copy of their electric bill, the bill of their main heating source, and the name of their heating vendor at the time of application or within 15 calendar days following the date the information is requested.

WVIMM§21.3.1.A and Chapter 4, Appendix A provides in pertinent parts:

The total monthly gross income of the AG must not be more than the maximum allowable gross income amounts in the chart in Chapter 4, Appendix A When the gross monthly income of the AG exceeds the maximum allowable income amounts, the group is ineligible for LIEAP and the application is denied.

For a one-person AG, the gross monthly income must be equal to or below \$2,049.

DISCUSSION

On March 24, 2023, the Respondent denied the Appellant's eligibility for LIEAP benefits and terminated her SNAP benefits because she failed to submit income verification by the required date. The Appellant contested the Respondent's denial and termination.

Pursuant to the policy, when the Appellant reported a change in her source of income at LIEAP application, the Respondent was required to verify the information by issuing a verification checklist. The Respondent is required to list all required verification known at the time the verification is requested. The regulations and policy require that the Respondent give the Appellant at least 10 days to provide the required verification.

LIEAP

The Respondent is required to issue a denial notice that reflects the basis of the denial. The evidence revealed that the Respondent required the Appellant to submit account numbers for [REDACTED] by March 14, 2023. The Respondent's denial notice did not indicate the Appellant's failure to submit [REDACTED] account numbers as a basis for denial.

The LIEAP denial basis provided on the Respondent's notice was the Appellant's failure to verify "proof of the start date of employment," and "proof of gross earned income, such as paystubs/employer statements." During the hearing, the Respondent's representative testified that the Appellant specifically failed to submit verification of her income from [REDACTED].

To prove that the Appellant failed to submit the requested verification, the evidence had to reveal that the Respondent's verification checklist requested the start date of employment and proof of gross earned income verification and that the Appellant failed to submit the requested verification by the due date. No evidence was submitted to establish that the Respondent requested employment and income verification from the Appellant and provided the Appellant with a due date to submit the information. Therefore, the Respondent's decision to deny the Appellant LIEAP eligibility based on failure to supply requested employment and income verification cannot be affirmed.

SNAP

Because the Appellant's reported change in income source and the amount of income may affect the amount of her SNAP benefits, the Respondent was required to verify the change and review the Appellant's ongoing SNAP eligibility.

The Respondent is required to issue a termination notice that reflects the basis of the termination. The evidence revealed that the Appellant's SNAP benefits were terminated because she failed to return the requested proof of the start date of employment, proof of gross earned income, and "Rent/Lot-Rent/Lease."

To prove that the Appellant failed to submit the requested verifications, the evidence had to reveal that the Respondent's verification checklist requested proof of the start date of employment, proof of gross earned income, and "Rent/Lot-Rent/Lease."

The evidence revealed that the Respondent required the Appellant to submit proof of refused, lost, or quit employment training within the previous 60 days be reported to the Respondent by March 9, 2023, to determine the Appellant's SNAP eligibility. The preponderance of the evidence revealed that the Appellant failed to submit the proof of employment by March 9, 2023. No evidence was submitted to indicate that the Respondent had requested verification of gross earned income or "Rent/Lot-Rent/Lease" or provided her with a date to submit the information.

CONCLUSIONS OF LAW

LIEAP

- 1) When an applicant fails to submit the requested employment and income verification, the LIEAP application may be denied.
- 2) The preponderance of evidence demonstrated that the Respondent did not request that the Appellant submit employment and income verification to determine her LIEAP eligibility.
- 3) The Respondent's decision to deny the Appellant's LIEAP eligibility based on failure to submit requested income verification was incorrect.
- 4) LIEAP applicants are required to meet income eligibility guidelines.
- 5) The preponderance of evidence failed to establish the amount of the Appellant's income.
- 6) The Respondent must issue a new verification checklist requesting all known employment and income verification to be submitted and allow the Appellant 10 days to submit the verification.
- 7) If the client does not provide the requested verification within the time frame specified, appropriate action is taken after advanced notice.

SNAP

- 8) The Respondent is required to provide the Appellant with a notice requesting verification that lists the required verification and provides a due date for verification submission.
- 9) The preponderance of evidence failed to establish that the Respondent provided the Appellant with a verification checklist indicating she was required to submit proof of gross earned income and "Rent/Lot-Rent/Lease."
- 10) The Respondent's decision to terminate the Appellant's SNAP benefits based on a failure to submit proof of earned income and "Rent/Lot-Rent/Lease" was incorrect.

- 11) The Appellant was required to submit proof of employment by March 9, 2023.
- 12) The preponderance of evidence demonstrated that the Appellant failed to submit proof of employment by March 9, 2023.
- 13) Because the Appellant was required to submit proof of employment by March 9, 2023 and failed to do so, the Respondent's decision to terminate her SNAP benefits was correct.

DECISION

In Board of Review Action No.: 23-BOR-1467, it is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's SNAP benefits.

In Board of Review Action No.: 23-BOR-1496, it is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to deny the Appellant LIEAP eligibility. The matter is **REMANDED** for issuance of a new income verification checklist and a review of the Appellant's LIEAP eligibility considering income verification submitted in response to the new verification checklist.

Entered this 28th day of April 2023.

Tara B. Thompson, MLS
State Hearing Officer