



**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**

June 1, 2023

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 23-BOR-1585

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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

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

cc: Terri Pemberton, Department Representative

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

**IN THE MATTER OF:**

**ACTION NO.: 23-BOR-1585**

**[REDACTED],**

**Appellant,**

**v.**

**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 May 18, 2023, on a timely appeal filed April 24, 2023.

The matter before the Hearing Officer arises from the March 20, 2023 decision by the Respondent to deny SNAP benefits due to unverified income.

At the hearing, the Respondent appeared by Terri Pemberton. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

**EXHIBITS**

**Department's Exhibits:**

- |     |   |
|-----|---|
| D-1 | Case Summary  |
| D-2 | Scheduling Order, dated May 2, 2023                             |
| D-3 | Notice of decision, dated March 20, 2023 (excerpt)              |
| D-4 | Screen print of Case Comments from the Respondent's data system |

D-5            West Virginia Income Maintenance Manual (WVIMM)  
                 §1.3 (excerpt)  
                 §7.2 (excerpt)  
                 §1.8 (excerpt)

**Appellant's Exhibits:**

A-1            Letter from [REDACTED] Payroll Office, dated March 22, 2023

A-2            WVIMM, §1.4 (excerpt)

A-3            Lease extension agreement, dated June 30, 2022

A-4            SNAP application, dated January 5, 2023

A-5            Emails from the Appellant, dated March 1, 2023, March 2, 2023, and March 22, 2023

A-6            Cover sheet  
                 Pay stub, pay date December 16, 2022

A-7            Verification checklist notice, dated February 22, 2023

A-8            Audio recordings, undated

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 SNAP benefits on January 5, 2023. (Exhibit A-4)
- 2)    The Respondent requested verification of the Appellant's earned income from December 6, 2022, to January 4, 2023, on or about January 23, 2023, with a due date of February 2, 2023. (Exhibit D-4)
- 3)    The Respondent mailed a notice (Exhibit A-7), dated February 22, 2023, of a second request for earned income, with a due date of March 3, 2023.
- 4)    The Appellant provided one pay stub, with a pay date of December 16, 2022 (Exhibit A-6), via email (Exhibit A-5) dated March 1, 2023.

- 5) The Respondent mailed a notice (Exhibit D-3), dated March 20, 2023, denying the Appellant's SNAP application because the Appellant "...did not provide all needed information."
- 6) The Appellant provided a letter (Exhibit A-1) to clarify her earned income on March 22, 2023.

### **APPLICABLE POLICY**

The West Virginia Income Maintenance Manual (WVIMM), Chapter 4, §4.4, addresses income budgeting and calculation for SNAP.

#### **WVIMM § 4.4.1.A provides in pertinent parts:**

There are two methods for reasonably anticipating the income the client expects to receive. One method uses past income and the other method uses future income. Both methods may be used for the same AG for the same certification period. The method used depends on the circumstances of each source of income.

Use past income only when both of the following conditions exist for a source of income:

- Income from the source is expected to continue into the certification period; and,
- The amount of income from the same source is expected to be more or less the same. For these purposes, the same source of earned income means income from the same employer, not just the continued receipt of earned income.

..

#### **WVIMM § 4.4.1.B addresses the consideration of past income, and provides in pertinent parts:**

..

Determine the amount of income received by all persons in the Income Group (IG) in the 30 calendar days prior to the application/redetermination date, or interview date when the interview is completed on a different day than when the application is received.

..

#### **WVIMM § 7.3 provides a table of verification requirements. At item #41, Earned Income, under the column heading "When to Verify," this table provides:**

All programs: Prior to initial approval, at application, at redetermination. (emphasis in original)

..

**WVIMM § 7.2.3 provides in pertinent parts:**

..

Failure of the client to provide necessary information or to sign authorizations for release of information results in denial of the application or closure of the active case, provided the client has access to such information and is physically and mentally able to provide it.

..

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

**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.

(1) **Mandatory verification.** State agencies shall verify the following information prior to certification for households initially applying:

(i) **Gross nonexempt income.** Gross nonexempt income shall be verified for all households prior to certification. However, where all attempts to verify the income have been unsuccessful because the person or organization providing the income has failed to cooperate with the household and the State agency, and all other sources of verification are unavailable, the eligibility worker shall determine an amount to be used for certification purposes based on the best available information.

..

**DISCUSSION**

The Appellant requested a fair hearing to appeal the Respondent's decision to deny her SNAP application due to unverified information, specifically earned income. The Respondent must show by a preponderance of the evidence that it correctly denied the Appellant's application on this basis.

The Appellant applied for SNAP on January 5, 2023. Comments from the Respondent's data system (Exhibit D-4) regarding the Appellant's case noted that, on January 23, 2023, the Respondent requested verification of the Appellant's earned income from December 6, 2022, through January 4, 2023. This 30-day period corresponds with the SNAP policy requirement for consideration of past income. The Appellant only provided one pay stub within this 30-day period. (It should be noted that, had the Respondent requested income for a 30-day period prior to the interview date, the verification provided would have remained insufficient.)

The Respondent extended the due date for this information by issuing a second verification checklist to the Appellant. This delay did not change the potential starting date for eligibility and provided additional time for the Appellant to verify her income. The single pay stub provided as

income verification did not cover the 30-day period in full. A clarifying statement (Exhibit A-1) was ultimately provided by the Appellant on March 23, 2023, after the second due date of March 3, 2023.

Policy requires earned income to be verified for SNAP prior to initial approval, and SNAP applications must be denied for failure to provide the information needed to process the application. Although there were clear delays in application processing by the Respondent, these delays afforded the Appellant additional time to provide complete income verification. Because the Appellant did not verify income amounts needed to process her SNAP application, the Respondent correctly denied her SNAP application.

### **CONCLUSIONS OF LAW**

- 1) Because the Appellant received earned income, verification of a 30-day period of income was needed to process her SNAP application.
- 2) Because the Appellant did not provide income verification for the full 30-day period requested, the Respondent must deny the Appellant's SNAP application.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to deny the Appellant's SNAP application for unverified income.

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

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**Todd Thornton**  
**State Hearing Officer**