



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

**Jeffrey H. Coben, M.D.  
Interim Cabinet Secretary**

**Sheila Lee  
Interim Inspector General**

February 17, 2023

[REDACTED]

Re: [REDACTED] v WV DHHR  
ACTION NO.: 22-BOR-2642

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,

Angela D. Signore  
State Hearing Officer  
Member, State Board of Review

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

cc: Rebecca Skeens, WV DHHR, [REDACTED]

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

[REDACTED],  
**Appellant,**

**v.**

**Action Number: 22-BOR-2642**

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on January 11, 2023, on an appeal filed December 22, 2022.

The matter before the Hearing Officer arises from the November 30, 2022 determination by the Respondent to deny the Appellant Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Rebecca Skeens, Economic Service Worker, DHHR. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 WV PATH SNAP Application, dated October 21, 2022
- D-2 WV PATH eligibility system printout of Case Comments, dated October 31 through December 27, 2022
- D-3 WV DHHR Verification Checklist Notice, dated November 01, 2022
- D-4 WV PATH eligibility system printout of Case Files, dated November 09, 2022; Offer of Employment Letter from [REDACTED], dated October 24, 2022; Copy of [REDACTED] Paystub, dated October 28, 2022; and WV DHHR Employment Statement, dated November 02, 2022, unsigned
- D-5 WV DHHR Notice of Decision, dated November 30, 2022
- D-6 West Virginia Income Maintenance Manual (WVIMM) §§ 1.3.1.B through 1.3.3
- D-7 WVIMM §§ 7.2.3 and 7.2.4
- D-8 WVIMM § 4.4.1.B

**Appellant's Exhibits:**

- A-1 Electronic Mail (Email) correspondence, dated December 20, 2022
- A-2 WV DHHR Shelter Attestation, dated November 11, 2022
- A-3 Offer of Employment Letter from [REDACTED], dated October 24, 2022
- A-4 WV DHHR Employment Statement, dated November 02, 2022, unsigned
- A-5 Copy of [REDACTED] Paystub, dated October 28, 2022
- A-6 WV DHHR Verification Checklist Notice, dated November 01, 2022

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 and received expedited Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) On November 01, 2022, the Department mailed a Verification Checklist letter to the Appellant asking her to provide proof of earned income, proof of employment start dates, and proof of rent in order to determine eligibility for SNAP benefits. (Exhibit D-3)
- 3) The November 01, 2022 notice further advised the Appellant that she was required to submit this information to the Department within ten (10) days, establishing a due date of November 10, 2022. (Exhibit D-3)
- 4) On November 09, 2022, the Appellant submitted an offer of employment letter from [REDACTED] dated October 24, 2022, a copy of her [REDACTED] paystub, dated October 28, 2022, and a WV DHHR Employment Statement, dated November 02, 2022, unsigned by her employer ([REDACTED]). (Exhibits D-2 and D-3)
- 5) On November 30, 2022, the Respondent issued a notice of decision informing the Appellant that due to her failure to provide the requested verifications, the Appellant is ineligible for SNAP benefits effective December 01, 2022. (Exhibits D-2, D-3, D-4, D-5 and D-6)
- 6) The Appellant failed to provide all verifications requested on the verification checklist prior to the specified time limit of November 10, 2022. (Exhibit D-6)
- 7) On an unknown date, subsequent to the November 10, 2022 verification due date, the Appellant submitted an additional [REDACTED] paystub, dated November 11, 2022.
- 8) On December 22, 2022, the Appellant requested a Fair Hearing based on the November 30, 2022 Notice of Termination for failure to provide the requested verifications prior to the established deadline.

**APPLICABLE POLICY**

**Code of Federal Regulations (CFR) §273.2(i)(4)(iii) provides, in part:**

(iii) Households that are certified on an expedited basis and have provided all necessary verification required in paragraph (f) of this section prior to certification shall be assigned normal certification periods. If verification was postponed, the State agency may certify these households for the month of application (the month of application and the subsequent month for those households applying after the 15th of the month) or, at the State agency's option, may assign normal certification periods to those households whose circumstances would otherwise warrant longer certification periods. State agencies, at their option, may request any household eligible for expedited service which applies after the 15th of the month and is certified for the month of application and the subsequent month only to submit a second application (at the time of the initial certification) if the household's verification is postponed.

**CFR §273.2(i)(4)(iii) provides, in part:**

For households applying after the 15th of the month, the State agency may assign a 2-month certification period or a normal certification period of no more than 12 months. Verification may be postponed until the third month of participation, if necessary, to meet the expedited timeframe. If a two-month certification period is assigned, the notice of eligibility may be combined with the notice of expiration or a separate notice may be sent. The notice of eligibility must explain that the household is obligated to satisfy the verification requirements that were postponed. For subsequent months, the household must reapply and satisfy the verification requirements which were postponed or be certified under normal processing standards. If the household does not satisfy the postponed verification requirements and does not attend the interview, the State agency does not need to contact the household again. *When a certification period of longer than 2 months is assigned and verification is postponed, households must be sent a notice of eligibility advising that no benefits for the third month will be issued until the postponed verification requirements are satisfied. The notice must also advise the household that if the verification process results in changes in the household's eligibility or level of benefits, the State agency will act on those changes without advance notice of adverse action.* [emphasis added]

**CFR §273.2(i)(4)(iii)(b) provides, in part:**

Households which apply for initial benefits (as described in §273.10(a)) after the 15th of the month, are entitled to expedited service, have completed the application process, and have been determined eligible to receive benefits for the initial month and the next subsequent month, shall receive a combined allotment consisting of prorated benefits for the initial month of application and benefits for the first full month of participation within the expedited service timeframe. If necessary, verification shall be postponed to meet the expedited timeframe. The benefits shall be issued in accordance with §274.2(c) of this chapter.

**West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 provides, in part:**

The client's responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about

his eligibility.

**WVIMM § 1.2.5 provides, in part:**

The worker must provide the applicant with a list of verifications needed to determine eligibility, using form DFA-6 or the verification checklist. He must also be told the penalty for failure to provide the verifications and what he must do if he finds he cannot obtain it by the deadline.

**WVIMM § 1.3.1.A.3 provides, in part:**

When the Worker does not have sufficient information to make a decision, it is necessary to complete form DFA-6 or verification checklist to inform the applicant of the additional information needed. All requests for verification must be made using the DFA-6 form and/or verification checklist. The Worker must clearly state on the form what items must be returned by the applicant, as well as the date by which the information must be returned. The applicant's failure to return information or the return of incomplete or incorrect information that prevents a decision from being made on the application will be considered failure to provide verification and will result in a denial of the application.

**WVIMM § 1.4.1.A provides, in part:**

If an applicant AG fails to provide the verifications requested on the DFA-6 or verification checklist within the specified time limit and the application is denied, the AG must be given an opportunity to have its eligibility established for up to 60 days from the date of application without completion of a new form. If the client brings in the verifications before the 60-day period has expired, the Worker determines the AG's eligibility based on the original application, noting in Case Comments any changes which have occurred since the form was completed. If the application is approved, SNAP benefits are not retroactive to the date of application because the approval delay was the fault of the client. Benefits are issued from the date the client provides the verification. The Worker provides benefits using information reported during the original application and any other pertinent information provided prior to approval.

**WVIMM § 1.4.8 provides, in part:**

Additional information requested from the applicant is due 10 calendar days from the date of the DFA-6 or verification checklist.

**WVIMM § 1.4.14.A.1 provides, in part:**

Upon determination of eligibility, an AG is assigned one of four certification periods as follows.

- One Month: Expedited Service cases which apply prior to the 16th of the month and do not provide the necessary verifications prior to approval. If verifications are provided within the time limit given, the certification period is extended an additional 11 or 23 months based on the AG's reporting requirements.
- Two Months: AGs eligible for Expedited Service who apply on or after the 16th of the month and have verification postponed. See Section 1.4.19.A.3, Combined Issuance. If verifications are provided within the time limit given, the certification period is extended an additional 10 or 22 months, based on the AG's composition and income.

**WVIMM § 1.4.16.C.1 provides, in part:**

Only verification of identity is required prior to approval for Expedited Service.

Verification of standard eligibility requirement is temporarily postponed unless verification can occur within the Expedited Service time frame.

Eligibility requirements must be met prior to approval, even though routine verification is temporarily postponed for Expedited Service.

The does not mean that eligibility requirements are waived prior to approval, only that the routine verification of them is postponed. This also applies to the verification of and the application for Social Security Number (SSN). All reasonable efforts must be made to meet all routine verification requirements prior to approval.

Postponed verification must be received prior to the second issuance.

If the applicant is able to verify identity, before, or at the same time, the additional information for which the case was pending is received, procedures for Expedited Service apply. The client also qualifies for Expedited Service if verification of identity is received at the same time the pending information is received. In addition, if the pending information is received, but not acted on, and then the verification of identity is received, Expedited Service procedures are appropriate. This must be explained to the client.

**WVIMM § 7.2.3 provides, in part:**

The primary responsibility for providing verification rests with the client. It is an eligibility requirement that the client cooperate in obtaining necessary verifications, with an exception being that a client must never be asked to provide verification that he is or is not either a fleeing felon or a probation/parole violator. The client is expected to provide information to which he has access and to sign authorizations needed to obtain other information. 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.

Refusal to cooperate, failure to provide necessary information, or failure to sign authorizations for release of information, provided the client has access to such information and is physically and mentally able to provide it, may result in one of the following:

- Denial of the application
- Closure of the assistance group (AG)
- Determination of ineligibility
- Disallowance of an income deduction or an incentive payment

**WVIMM § 9.2.1.A provides, in part:**

The date entered in the DFA-6 must be 10 days from the date of issuance.

If information involving an eligibility factor is not provided by the date indicated, and the client has not contacted the Worker to explain the delay, the application is denied using a DFA-NL-A. If eligibility is established, but the client does not provide proof of entitlement to a deduction, the deduction is not allowed, but the assistance group (AG) is approved. The DFA-NL-A is used for notification of approval. Federal regulations require that the DFA-6 be given to the client no later than 30 days after the date of application. He must also be allowed 10 days to respond to the DFA-6. The Worker must issue benefits retroactive to the date of application if the client supplies the needed information within the 30-day time limit.

**DISCUSSION**

The Respondent bears the burden of proof to establish that action taken against the Appellant was in accordance with policy. The Respondent had to prove by a preponderance of evidence that the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits were correctly denied based on the Appellant's non-compliance to provide the verifications requested on the DFA-6 or verification checklist within the specified time limit.

The Respondent testified that the Appellant applied for expedited SNAP benefits on October 21, 2022. On November 01, 2022, the Respondent issued a verification checklist to the Appellant advising her of the need to provide documentation of earned income from [REDACTED] and [REDACTED], proof of her employment start dates, and proof of rent in order for the Department to further determine the Appellant's eligibility. The November 01, 2022 notice further advised the Appellant that she was required to submit the requested information to the Department within ten

(10) days, establishing a due date of November 10, 2022. On November 09, 2022, the Appellant submitted a self completed WV DHHR Shelter Attestation, an offer of employment letter from [REDACTED], dated October 24, 2022, a copy of her [REDACTED] paystub, dated October 28, 2022, and a WV DHHR Employment Statement, dated November 02, 2022, unsigned by her employer ([REDACTED]). The Respondent testified that because the employment offer letter from [REDACTED] failed to provide the amount of hours the Appellant would be expected to work each week, the letter was insufficient for verification purposes. The Respondent further testified that the Appellant submitted “only one paystub for [REDACTED],” and that the employer’s statement was also unsigned and undated. Because the Appellant failed to provide the requested verifications by the established due date, on November 30, 2022, the Respondent issued an additional notice informing the Appellant that her application for SNAP benefits was denied, effective December 01, 2022.

The Appellant argued that due to beginning employment for both [REDACTED] in October 2022, paystubs for both employers were not available for submission. The Appellant testified that because of this, she was informed that in order to continue receiving SNAP benefits for the months of December 2022 and onward, she would need to submit copies as soon as possible. In addition, the Appellant testified that she was allegedly informed of the need to complete the self attestation form “on my own” and was not advised of the need for “any signatures.” The Appellant testified that she followed the directions to the best of her ability by the information provided by the Representative. The Appellant further argued that a significant hardship has been created since she was not informed of the insufficiency of the submitted verifications until the November 30, 2022 denial. Additionally, the Appellant testified that subsequent to the November 10, 2022 verification due date, the Appellant submitted an additional [REDACTED] paystub, dated November 11, 2022.

Pursuant to policy, the primary responsibility for providing verification rests with the client. It is an eligibility requirement that the client cooperate in obtaining all necessary verifications in order for the Department to make correct benefit eligibility determinations. The client is expected to provide information to which she has access, and to sign any authorizations needed in order to obtain other information. If any information involving an eligibility factor is not provided by the date indicated, and the client has not contacted the Worker to explain the delay, the application is denied.

When reviewing the evidence, the Department failed to provide the Appellant with thirteen (13) days advance notice of adverse action. However, pursuant to Federal Regulations, when a certification period of longer than 2 months is assigned and verification is postponed, households must be advised that *no benefits for the third month will be issued until the postponed verification requirements are satisfied* [emphasis added]. By the Appellant’s own admission, she was advised of this policy requirement. It should be noted that the case comment for December 22, 2022, reads “Only one pay stub was received dated 10/22/2022 but was cut off at top and does not show what dates client was paid for and not full 30 days of income verification received. Explained to client new application with correct income and loss of income verifications are required.” According to



policy section 1.4.1.A: If an applicant AG fails to provide the verifications requested on the DFA-6 or verification checklist within the specified time limit and the application is denied, the AG must be given an opportunity to have its eligibility established *for up to 60 days from the date of application without completion of a new form* [emphasis added]. Even though the Appellant was able to provide the Department with an additional [REDACTED] paystub, because the Appellant did not report to the Department or provide testimony of her inability to obtain or have access to employment verification for [REDACTED], she still failed to submit all required documentation requested by the date indicated, including the sixty (60) day timeframe provided to the reapplication requirement. Because the policy does not provide any exceptions for continued SNAP benefits without this documentation, the Department was correct in denying the Appellant's SNAP application.

### **CONCLUSIONS OF LAW**

- 1) Pursuant to policy, in order for the Department to further determine the Appellant's eligibility for SNAP benefits, the Appellant was responsible for providing the requested verifications to the Respondent by November 10, 2022.
- 2) The Appellant failed to provide all of the requested verifications for the October 21, 2022 expedited SNAP application prior to the established due date of November 10, 2022.
- 3) Because the Appellant failed to provide the requested verifications prior to the established due date, the Respondent's decision to deny the Appellant's October 21, 2022 SNAP application was correct.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to deny the Appellant's SNAP benefits, effective November 30, 2022.

ENTERED this \_\_\_\_\_ day of February 2023.

---

**Angela D. Signore**  
State Hearing Officer