

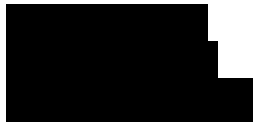


**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review**

**Sherri A. Young, DO, MBA, FAAFP
Interim Cabinet Secretary**

**Christopher G. Nelson
Interim Inspector General**

October 24, 2023



RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-3076

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: India Graham, [REDACTED] DHHR

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

██████████,

Appellant,

v.

Action Number: 23-BOR-3076

**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 October 24, 2023, on an appeal filed on September 27, 2023.

The matter before the Hearing Officer arises from the September 18, 2023, decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by India Graham, Economic Service Worker. The Appellant was self-represented. The witnesses were placed under oath 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 was a recipient of SNAP benefits.
- 2) On August 17, 2023, the Appellant submitted a SNAP review form.
- 3) A telephone interview with the Appellant was scheduled for September 8, 2023, at 2:30 p.m.
- 4) On September 8, 2023, the Appellant's caseworker called the Appellant three times at telephone number 681-238-8735.
- 5) The Appellant could not be reached for the interview, and he did not have an answering machine or voice mail for messages.
- 6) The Respondent issued a notice of termination on September 18, 2023, advising the Appellant that he would no longer receive SNAP benefits after September 30, 2023, for his failure to complete an eligibility review.

APPLICABLE POLICY

Code of Federal Regulations – 7 CFR §273.14 explains the recertification requirement for SNAP:

(a) **General.** No household may participate beyond the expiration of the certification period assigned in accordance with [§ 273.10\(f\)](#) without a determination of eligibility for a new period. The State agency must establish procedures for notifying households of expiration dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods. Households must apply for recertification and comply with interview and verification requirements.

(b) **Recertification process** —

(1) **Notice of expiration.**

(i) The State agency shall provide households certified for one month or certified in the second month of a two-month certification period a notice of expiration (NOE) at the time of certification. The State agency shall provide other households the NOE before the first day of the last month of the certification period, but not before the first day of the next-to-the-last month.

(ii) Each State agency shall develop a NOE. The NOE must contain the following:

(A) The date the certification period expires;

(B) The date by which a household must submit an application for recertification in order to receive uninterrupted benefits;

(C) The consequences of failure to apply for recertification in a timely manner;

(D) Notice of the right to receive an application form upon request and to have it accepted as long as it contains a signature and a legible name and address;

(E) Information on alternative submission methods available to households which cannot come into the certification office or do not have an authorized representative and how to exercise these options;

(F) The address of the office where the application must be filed;

(G) The household's right to request a fair hearing if the recertification is denied or if the household objects to the benefit issuance;

(H) Notice that any household consisting only of Supplemental Security Income (SSI) applicants or recipients is entitled to apply for SNAP recertification at an office of the Social Security Administration;

(I) Notice that failure to attend an interview may result in delay or denial of benefits; and

(J) Notice that the household is responsible for rescheduling a missed interview and for providing required verification information.

(iii) To expedite the recertification process, State agencies are encouraged to send a recertification form, an interview appointment letter that allows for either in-person or telephone interviews, and a statement of needed verification required by [§ 273.2\(c\)\(5\)](#) with the NOE.

(2) **Application.** The State agency must develop an application to be used by households when applying for recertification. It may be the same as the initial application, a simplified version, a monthly reporting form, or other method such as annotating changes on the initial application form. A new household signature and date is required at the time of application for recertification. The recertification process can only be used for those households which apply for recertification prior to the end of their current certification period, except for delayed applications as specified in [paragraph \(e\)\(3\)](#) of this section. The process, at a minimum, must elicit from the household sufficient information that, when added to information already contained in the casefile, will ensure an accurate determination of eligibility and benefits. The State agency must notify the applicant of information which is specified in [§ 273.2\(b\)\(2\)](#), and provide the household with a notice of required verification as specified in [§ 273.2\(c\)\(5\)](#).

(3) **Interview.** As part of the recertification process, the State agency must conduct an interview with a member of the household or its authorized representative at least once

every 12 months for households certified for 12 months or less. The provisions of [§ 273.2\(e\)](#) also apply to interviews for recertification. The State agency may choose not to interview the household at interim recertifications within the 12-month period. The requirement for an interview once every 12 months may be waived in accordance with [§ 273.2\(e\)\(2\)](#).

(ii) If a household receives PA/GA and will be recertified for SNAP benefits more than once in a 12-month period, the State agency may choose to conduct a face-to-face interview with that household only once during that period. At any other recertification during that year period, the State agency may interview the household by telephone, conduct a home visit, or recertify the household by mail.

(iii) State agencies shall schedule interviews so that the household has at least 10 days after the interview in which to provide verification before the certification period expires. If a household misses its scheduled interview, the State agency shall send the household a Notice of Missed Interview that may be combined with the notice of denial. If a household misses its scheduled interview and requests another interview, the State agency shall schedule a second interview.

(c) Timely application for recertification.

(1) Households reporting required changes in circumstances that are certified for one month or certified in the second month of a two-month certification period shall have 15 days from the date the NOE is received to file a timely application for recertification.

(2) Other households reporting required changes in circumstances that submit applications by the 15th day of the last month of the certification period shall be considered to have made a timely application for recertification.

(3) For monthly reporting households, the filing deadline shall be either the 15th of the last month of the certification period or the normal date for filing a monthly report, at the State agency's option. The option chosen must be uniformly applied to the State agency's entire monthly reporting caseload.

(4) For households consisting only of SSI applicants or recipients who apply for SNAP recertification at SSA offices in accordance with [§ 273.2\(k\)\(1\)](#), an application shall be considered filed for normal processing purposes when the signed application is received by the SSA.

West Virginia Income Maintenance Manual §1.4.18 explains the SNAP redetermination process:

1.4.18.A Redetermination Forms

The eligibility system automatically mails the CSLE/CSLR in the month prior to the last month of certification. The form must be completed and returned prior to the scheduled interview date specified on the CSLE/CSLR. The form is considered complete when signed

and dated by the client or his authorized representative or completed and submitted by WV PATH.

1.4.18.C Redetermination Interview

An interview is required regardless of the method by which the redetermination is completed. A phone interview is conducted unless one or more of the following criteria is met:

- The client or his authorized representative requests a face-to-face interview. The Worker must schedule the appointment; or
- The Department determines that a phone interview is not appropriate due to questionable circumstances.

1.4.18.D Scheduling Interviews

When the client submits a redetermination, either in person, by mail, fax or WV PATH, but fails to complete a scheduled interview for redetermination, he is notified of the missed interview and that it is his responsibility to reschedule the interview. In addition, he receives notice of AG closure if the redetermination is not completed. When the client does not submit a redetermination form, he is only notified of AG closure.

All SNAP AGs must receive notice of expiration of the certification period. For cases certified for more than one month, the notice must be received in the month prior to the last month of certification. The local office has the following options in scheduling redetermination interviews:

- Schedule an interview by sending an appointment letter to each AG to be redetermined. The appointment may be scheduled anytime during the last month of certification. However, if the client's appointment is scheduled after the 15th, he may request and must be granted an appointment for the 15th or earlier. The client must be given 15 days from the date of the appointment letter before any penalties are applied for failure to keep the appointment.
- Redeterminations for pure SSI AGs may be initiated by SSA staff and completed by the Worker. The AG is notified of this service by form ES-RT-3. See Special Considerations below.

1.4.18.E Completion

A SNAP redetermination is a reapplication for benefits. Under no circumstances are benefits continued past the month of redetermination, unless a redetermination is completed, and the client is found eligible. If the recipient is no longer eligible, the SNAP AG is closed.

DISCUSSION

Federal regulations and agency policy stipulate that no household may participate in SNAP beyond the expiration of the certification period without a determination of eligibility for a new certification period. All households must apply for recertification and comply with interview and verification requirements.

The Appellant was required to complete a SNAP eligibility review before his certification expired on September 30, 2023. The Respondent terminated the Appellant's SNAP benefits when the Appellant failed to complete an interview in conjunction with his SNAP redetermination.

The Appellant did not dispute his failure to complete the required interview and testified that he has been unable to get into contact with the Respondent to have one rescheduled.

Whereas SNAP benefits cannot be continued beyond the certification period without a redetermination of eligibility, the Respondent acted in accordance with policy in the termination of the Appellant's SNAP benefits for failure to complete an eligibility review.

CONCLUSIONS OF LAW

- 1) Pursuant to federal regulations and agency policy, no household may participate beyond the expiration of the certification period without a determination of continued eligibility.
- 2) A SNAP redetermination is not considered complete until an interview is conducted.
- 3) Although the Appellant submitted his SNAP review form, he failed to complete the required interview prior to the end of his certification period.
- 4) The Respondent's decision to terminate the Appellant's SNAP benefits is affirmed.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program benefits.

ENTERED this 24th day of October 2023.

Kristi Logan
Certified State Hearing Officer