

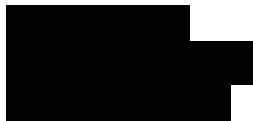


**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review**

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

**Christopher G. Nelson
Interim Inspector General**

December 8, 2023



RE: [REDACTED] **v. WVDHHR**
ACTION NO.: 23-BOR-3436

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,

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

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

cc: Rebecca Skeens, WVDHHR

P.O. Box 1736 • Romney, WV 26757
304-822-6900 • <https://www.wvdhhr.org/oig/bor.html> •
Eric.L.Phillips@wv.gov • OIGBOR@WV.GOV

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

██████████,

Appellant,

v.

Action Number: 23-BOR-3436

**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 December 7, 2023, on an appeal filed November 14, 2023.

The matter before the Hearing Officer arises from the October 17, 2023 decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program benefits.

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

Department's Exhibits:

- D-1 Case Comments dated June 27, 2023
- D-2 Verification Checklist dated June 28, 2023
- D-3 Lease Agreement
- D-4 Case Comments dated August 1, 2023
- D-5 Case Comments dated October 16, 2023
- D-6 Notice of Decision dated October 17, 2023
- D-7 West Virginia Income Maintenance Manual Chapter 7.3
- D-8 West Virginia Income Maintenance Manual Chapter 7.2.3
- D-9 West Virginia Income Maintenance Manual Chapter 1.4.1.A

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 June 27, 2023, the Appellant reported a change of address to the Respondent's Change Center. (Exhibit D-1)
- 3) The Appellant reported that she was responsible for a monthly shelter cost of \$326.00. (Exhibit D-1)
- 4) On June 28, 2023, the Respondent issued a Verification Checklist (Exhibit D-2) requesting the Appellant provide verification of her rent expense by July 7, 2023 or deductions for the shelter expense would not be continued.
- 5) On July 14, 2023, the Appellant provided a Lease Agreement (Exhibit D-3) to Respondent which failed to include the landlord's phone number.
- 6) On August 1, 2023, the Appellant inquired about the Lease Agreement with the Respondent's Change Center and was informed that the Lease Agreement was not accepted because it did not document the landlord's phone number.
- 7) On October 16, 2023, the Respondent removed the Appellant's shelter cost deduction because the Appellant failed to verify her shelter expenses. (Exhibit D-5)
- 8) On October 17, 2023, the Appellant was advised by a Notice of Decision (Exhibit D-6) that her SNAP benefits would decrease from a monthly amount of \$220.00 to \$23.00 effective November 1, 2023, because her shelter and utility cost were less.
- 9) In November 2023, the Appellant provided a complete copy of the Lease Agreement which included the landlord's phone number. (Exhibit D-5)
- 10) Effective December 1, 2023, the Appellant's SNAP benefits increased to a monthly amount of \$219.00.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 7.3 documents in pertinent part:

For SNAP purposes shelter expenses are verified at each application and redetermination, or when an individual reports a change of shelter expense.

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 on official letterhead from an office or agency. This includes offices or agencies working on behalf of the landlord. • HUD contracts/renewals

West Virginia Income Maintenance Manual 7.2.3 document in pertinent 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.

For Modified Adjusted Gross Income (MAGI) Medicaid Coverage Groups and WVCHIP Only:

- Client self-attestation is verified by electronic data sources.
- The client must not be required to provide verification unless information cannot be obtained electronically or self-attestation, and electronic data sources are not reasonably compatible. See Section 7.2.5 below. 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
- No case may be determined ineligible when a person outside the AG or income group (IG) fails to cooperate with verification. The following individuals are not considered part of the AG or IG but must provide verification:
- Ineligible student (SNAP – verification only required for student status)
 - Non-qualified non-citizens (all programs)
 - Persons who fail to attest to or verify citizenship or non-citizen status (requirements vary by program)
 - Disqualified persons (WV WORKS and SNAP)
 - Supplemental Security Income (SSI) recipients who would be required to be included in the WV WORKS AG, except for receipt of SSI

West Virginia Income Maintenance Manual Chapter 7.2.4 documents in part:

The Worker has the following responsibilities in the verification process:

- At application, redetermination, and anytime a DFA-6 is used, the Worker must list all required verification known at the time. The Worker should only request additional verification if information provided is incomplete or additional information is necessary to determine eligibility.
- If the client is unsuccessful in obtaining information, or if physical or mental limitations prevent his compliance, and there is no one to assist him, the Worker must document attempts to obtain the verification.
- The Worker must accept any reasonable documentary evidence as verification and must not require a specific kind or source of verification. Verification may be submitted in person, by mail, by fax, or electronically.
- The Worker must not request verification if the case record or other documentation shows that verification has previously been supplied. It may, however, be requested if the verification provided or shown in the Department's records is incomplete, inaccurate, outdated, or inconsistent with recently reported information.
- If the client requests a receipt for verification, one must be provided.
- When the client alleges sexual harassment and domestic violence, sexual assault, and stalking, the Worker, in order to ensure the safety of the individual, must never contact the abuser, his relatives, or friends. See Section 7.3.16 for acceptable method of verification in sexual harassment and domestic violence, sexual assault, and stalking situations.

Code of Federal Regulations 7 CFR 273.2(f)(1) documents:

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.

Code of Federal Regulations 7 CFR 273.2(f)(1)(ii) documents:

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.

Code of Federal Regulation 7 CFR 273.10(d) documents in part:

Determining deductions. Deductible expenses include only certain dependent care, shelter, medical and, at State agency option, child support costs as described in [§ 273.9](#).

West Virginia Common Chapters Manual 710.16.B documents:

If a current Recipient requests a hearing prior to the effective date of the adverse action then the adverse action shall be delayed pending a hearing decision.

DISCUSSION

Governing policy requires the verification of reported changes during a certification period. The Respondent removed the Appellant's shelter cost deduction and subsequently reduced the Appellant's Supplemental Nutrition Assistance Program benefits when the Appellant failed to provide verification of her shelter cost after a reported change of address. The Respondent had to prove by a preponderance of the evidence that the Appellant failed to provide a complete verification of her shelter expenses to maintain a shelter cost deduction.

In June 2023, the Appellant reported her relocation within the state of West Virginia and her shared cost of a shelter expense at her new residence. The Respondent required verification of the shelter cost expense, through a Verification Checklist (Exhibit D-2), by July 7, 2023. On July 14, 2023, the Appellant provided a copy of the lease agreement; however, the Respondent determined that the documentation was incomplete because it failed to disclose the landlord's phone number. Through a delayed action on October 16, 2023, the Respondent removed the Appellant's shelter cost deduction based on the incomplete lease agreement and subsequently reduced the Appellant's monthly SNAP benefits from \$220.00 to \$23.00, effective November 1, 2023. (Exhibit D-6)

The Appellant contends that she should remain eligible for the whole portion of SNAP benefits for November 2023 because she provided her current lease agreement. The Appellant purported that she received a blank Verification Checklist which did not establish the necessary information required to maintain her eligibility. The Appellant indicated that she provided multiple copies of the lease agreement to the Respondent, through their local office drop box, and issued a copy through electronic mail. On November 2, 2023, the Appellant provided a complete verification of her lease agreement which resulted in an increase of SNAP benefits effective December 1, 2023.

Additionally, the Appellant argued that she verbally requested a hearing with the Respondent, indicating her desire for SNAP benefits to continue pending a decision from the State Hearing Officer, but the Respondent failed to adhere to her request.

For SNAP purposes, policy requires verification when an individual reports a change to shelter expenses. The verification must include the name and phone number of the landlord, the obligation amount, and the actual paid amount. Failure of the individual to provide the necessary information results in a disallowance of an income deduction. Evidence revealed that the Appellant provided a copy of her lease agreement but failed to include the phone number of her landlord. There was no evidence presented to establish that the Appellant was incorrectly notified of the information required to maintain her eligibility for a shelter cost deduction and the Appellant was afforded a ten-day timeframe to provide the necessary documentation. Because the Appellant failed to provide complete documentation verifying her shelter costs, the Respondent's decision to remove the deduction and reduce SNAP benefits is affirmed.

West Virginia Common Chapters mandate that an adverse action is delayed pending a decision of the State Hearing Officer when a current benefit recipient requests a hearing prior to the effective date of the adverse action. On November 1, 2023, the Appellant's SNAP benefits were to be reduced because of the October 17, 2023 adverse action initiated by the Respondent. On November 14, 2023, the Appellant provided a written hearing request after the effective date of the adverse action. While the Appellant contended that she verbally requested her SNAP benefits continue pending a decision of the State Hearing, there was no evidence presented to demonstrate that such request was made prior to the initiation of the adverse action. Therefore, the Respondent's action to not continue SNAP benefits pending a decision of the State Hearing Officer is affirmed.

CONCLUSIONS OF LAW

- 1) For SNAP purposes, verification is required when an individual reports a change in shelter expenses during a recertification period.
- 2) Acceptable verification of shelter expenses must include the name of the landlord's and phone number.
- 3) Failure to provide necessary verifications results in a disallowance of an income deduction.
- 4) Agencies must afford households at least a ten-day timeframe to provide requested verifications.
- 5) The Appellant was required to provide a complete verification of her shelter expense by July 7, 2023, ten days after her reported change of shelter costs.
- 6) The Appellant provided an incomplete lease agreement, which failed to establish her landlord's phone number, after the timeframe established by the Verification Checklist.

- 7) The Appellant's failure to verify her shelter costs resulted in a disallowance of an income deduction and reduction of SNAP benefits.

DECISION

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

ENTERED this _____ day of December 2023.

Eric L. Phillips
State Hearing Officer