



April 11, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 24-BOR-1318

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 HUMAN SERVICES. 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: Tera Pendleton, Department Representative

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

██████████,

Appellant,

v.

Action Number: 24-BOR-1318

**WEST VIRGINIA DEPARTMENT OF
HUMAN SERVICES
BUREAU FOR FAMILY ASSISTANCE,**

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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on March 5, 2024, upon a timely appeal filed on February 6, 2024.

The matter before the Hearing Officer arises from the December 19, 2023 decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

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

Department's Exhibits:

D-1 Case Comments from the Respondent's data system regarding the Appellant's SNAP case

D-2 Notice of decision dated December 19, 2023

D-3 SNAP 24-month review document

D-4 West Virginia Income Maintenance Manual 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 Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant was a recipient of SNAP benefits.
- 2) The Appellant's SNAP case was assigned a 24-month certification period.
- 3) The Appellant added her daughter and two grandchildren to her SNAP case.
- 4) These additions changed the composition of the Appellant's SNAP household, requiring a change in her certification period.
- 5) The Respondent did not notify the Appellant of the change in her certification period, as required by policy.
- 6) The Respondent terminated the Appellant's SNAP benefits (Exhibit D-2) for failure to "...complete an Eligibility Review," after failing to notify the Appellant of her certification period change.

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), Chapter 1, §1.4.14.A, addresses certification periods, and at §1.4.14.A.1, provides:

Upon determination of eligibility, an [assistance group] is assigned one of four certification periods as follows.

...

24 Months

All AGs in which there is no earned income or only excluded earned income and all adult AG members are:

- At least age 60; and/or

- Disabled.

WVIMM, §1.4.14.B.2 provides:

Shortening a Certification Period

Once a 24-month certification period is established, the Worker must shorten it in the following situations and advance notice must be given.

- The AG has an offset of non-excluded earned income;
- The AG is joined by an individual with non-excluded earned income;
- The AG is joined by an adult who is not elderly or disabled.

When the AG no longer qualifies for a 24-month certification period, the Worker must complete a determination when the advance notice period ends and assign a new certification period based on the AG's current circumstances.

Code of Federal Regulations, Title 7 CFR §273.10(f), provides:

(f) ***Certification periods.*** The State agency must certify each eligible household for a definite period of time. State agencies must assign the longest certification period possible based on the predictability of the household's circumstances. The first month of the certification period will be the first month for which the household is eligible to participate. The certification period cannot exceed 12 months except to accommodate a household's transitional benefit period and as specified in [paragraphs \(f\)\(1\) and \(f\)\(2\)](#) of this section.

(1) ***Households in which all adult members are elderly or disabled.*** The State agency may certify for up to 24 months households in which all adult members are elderly or disabled. The State agency must have at least one contact with each household every 12 months. The State agency may use any method it chooses for this contact.

(2) ***Households residing on a reservation.*** The State agency must certify for 24 months those households residing on a reservation which it requires to submit monthly reports in accordance with [§ 273.21](#), unless the State agency obtains a waiver from FNS. In the waiver request the State agency must include justification for a shorter period and input from the affected Indian tribal organization(s). When households move off the reservation, the State agency must either continue their certification periods until they would normally expire or shorten the certification periods in accordance with [paragraph \(f\)\(4\)](#) of this section.

(3) ***Certification period length.*** The State agency should assign each household the longest certification period possible, consistent with its circumstances.

(i) Households should be assigned certification periods of at least 6 months, unless the household's circumstances are unstable or the household contains an ABAWD.

(ii) Households with unstable circumstances, such as households with zero net income, and households with an ABAWD member should be assigned certification periods consistent with their circumstances, but generally no less than 3 months.

(iii) Households may be assigned 1- or 2-month certification periods when it appears likely that the household will become ineligible for SNAP benefits in the near future.

(4) ***Shortening certification periods.*** The State agency may not end a household's certification period earlier than its assigned termination date, unless the State agency receives information that the household has become ineligible, the household has not complied with the requirements of [§ 273.12\(c\)\(3\)](#), or the State agency must shorten the household's certification period to comply with the requirements of [§ 273.12\(a\)\(5\)](#). Loss of public assistance or a change in employment status is not sufficient in and of itself to meet the criteria necessary for shortening the certification period. The State agency must close the household's case or adjust the household's benefit amount in accordance with [§ 273.12\(c\)\(1\)](#) or [\(c\)\(2\)](#) in response to reported changes. The State agency must issue a notice of adverse action as provided in [§ 273.13](#) to shorten a participating household's certification period in connection with imposing the simplified reporting requirement. The State agency may not use the Notice of Expiration to shorten a certification period, except that the State agency must use the Notice of Expiration to shorten a household's certification period when the household is receiving transitional benefits under Subpart H, has not reached the maximum allowable number of months in its certification period during the transitional period, and the State agency has chosen to recertify the household in accordance with [§ 273.28\(b\)](#). If the transition period results in a shortening of the household's certification period, the State agency shall not issue a household a notice of adverse action but shall specify in the transitional notice required under [§ 273.29](#) that the household must be recertified when it reaches the end of the transitional benefit period or if it returns to TANF during the transitional period.

DISCUSSION

The Appellant appeals the Respondent's decision to terminate the Appellant's SNAP benefits due to failure to complete a review of eligibility. The Respondent must show by a preponderance of the evidence that it correctly terminated the Appellant's SNAP benefits on this basis.

The Appellant received SNAP benefits in an assistance group of one (1) and met the policy requirements for a 24-month certification period. The Respondent assigned the Appellant a 24-month certification period after a SNAP review completed in March 2023. The Appellant added her daughter and grandchildren to her SNAP case. This change in household composition changed the applicable certification period for the Appellant's SNAP case. Because the change was a shortening of the certification period, the Respondent was required by policy to provide adverse action notification to the Appellant. The testimony of the Respondent representative established that this notice was not sent. Subsequent to this, the Appellant missed a SNAP review and the Respondent closed her case.

The Respondent may shorten the certification period of the Appellant once all the factors to do so are met. The household conditions were shown to have been met through evidence and testimony.

However, the Respondent's noticing burden was not met. The Respondent's action to terminate SNAP benefits based on an invalid review cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Because the Respondent did not provide the required adverse notification in conjunction with a shortened certification period, the Respondent may not shorten the Appellant's certification period.
- 2) Because the Appellant's SNAP certification period was not properly shortened, the subsequent review based on that certification period is invalid.
- 3) Because the Respondent's action to terminate the Appellant's SNAP benefits relied on an invalid review and an improperly shortened certification period, the Respondent's action cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits due to an incomplete review. The Respondent may require a SNAP review after properly notifying the Appellant of a shortened certification period.

ENTERED this _____ day of April 2024.

Todd Thornton
State Hearing Officer