



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

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

**Ann Vincent-Uriling  
Interim Inspector General**

February 22, 2024

[REDACTED]

RE: [REDACTED] v. WVDohS  
ACTION NO.: 24-BOR-1354

[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 ensure 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: Jill Lester, BFA

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

██████████,

**Appellant,**

**v.**

**Action Number: 24-BOR-1354**

**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 West Virginia Office of Inspector General's Common Chapters Manual. This fair hearing was convened on February 22, 2024, on an appeal filed February 6, 2024.

The matter before the Hearing Officer arises from the February 7, 2024 decision by the Respondent to deny the Appellant's application for Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Jill Lester, 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    Hearing Summary
- D-2    Notice of Decision
- D-3    SNAP Application dated January 4, 2024
- D-4    Notice of Telephone Appointment dated January 10, 2024
- D-5    Notice of Telephone Appointment dated January 19, 2024
- D-6    West Virginia Income Maintenance Manual §1.4.15
- D-7    Case Comments dated January 10, 2024
- D-8    Case Comments dated January 19, 2024 through February 7, 2024

**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) On January 4, 2024, the Appellant submitted a SNAP application. (Exhibit D-3)
- 2) A phone interview was required with the Appellant to complete the SNAP application.
- 3) On January 10, 2024, the Respondent issued a notice (Exhibit D-4) to the Appellant informing her of a scheduled telephone interview appointment on January 19, 2024, at 2:15 P.M.
- 4) The Appellant failed to complete the January 19, 2024 telephonic interview.
- 5) On January 19, 2024, the Respondent issued an additional notice (Exhibit D-5) to the Appellant informing her of a scheduled telephone interview appointment on January 25, 2024 at 1:00 P.M.
- 6) The Appellant failed to complete the January 25, 2024 telephonic interview.
- 7) On February 7, 2024, the Respondent issued a Notice of Decision (Exhibit D-2) to the Appellant informing her that her SNAP application had been denied because she failed to complete a required telephone interview.

**APPLICABLE POLICY**

West Virginia Income Maintenance Manual § 1.2.5 documents in pertinent part:

An interview is required for SNAP but may be completed by phone or face-to-face. Medicaid does not require an interview. The interview may be completed by the client or authorized representative visiting the office, or by the Worker making a home visit. Whether or not a face-to-face interview is required is found in program-specific sections of this chapter, along with any information that is specific to a particular program. When it is not feasible for the applicant to be interviewed, if an interview is required or requested, on the date he expresses his interest, he must be allowed to complete the process at a later date. An appointment may be scheduled

for his return, or the client may return at his convenience, depending upon the procedure established by the CSM.

- The same procedure must be used for all applicants within the county.
- If a household misses a scheduled interview appointment, it is the household's responsibility for rescheduling. To the extent practicable, the State agency must accommodate the applicant.

Code of Federal Regulation § 273.2.A.2 documents:

***Application processing.*** The application process includes filing and completing an application form, being interviewed, and having certain information verified. The State agency must act promptly on all applications and provide SNAP benefits retroactive to the month of application to those households that have completed the application process and have been determined eligible. States must meet application processing timelines, regardless of whether a State agency implements a photo EBT card policy. The State agency must make expedited service available to households in immediate need.

Code of Federal Regulation § 273.2.D.1 documents:

To determine eligibility, the application form must be completed and signed, the household or its authorized representative must be interviewed, and certain information on the application must be verified. If the household refuses to cooperate with the State agency in completing this process, the application shall be denied at the time of refusal. For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take and that are required to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed not merely failing to appear for the interview. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied, and the agency shall provide assistance required by [paragraph \(c\)\(5\)](#) of this section. The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes and applications for recertification. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until it cooperates with the State agency. The State agency shall not determine the household to be ineligible when a person outside of the household fails to cooperate with a request for verification. The State agency shall not consider individuals identified as nonhousehold members under [§ 273.1\(b\)\(2\)](#) as individuals outside the household.

Code of Federal Regulation § 273.2.E.1 documents:

Except for households certified for longer than 12 months, and except as provided in [paragraph \(e\)\(2\)](#) of this section, households must have a face-to-face interview with an eligibility worker at initial certification and at least once every 12 months thereafter. State agencies may not require households to report for an in-office interview during their certification period, though they may request households to do so. For example, State agencies may not require households to report en masse for an in-office interview during their certification periods simply to review their case files, or for any other reason. State agencies may not require an in-person interview solely to take a photo. Interviews may be conducted at the SNAP office or other mutually acceptable location, including a household's residence. If the interview will be conducted at the household's residence, it must be scheduled in advance with the household. If a household in which all adult members are elderly or disabled is certified for 24 months in accordance with [§ 273.10\(f\)\(1\)](#), or a household residing on a reservation is required to submit monthly reports and is certified for 24 months in accordance with [§ 273.10\(f\)\(2\)](#), a face-to-face interview is not required during the certification period. The individual interviewed may be the head of household, spouse, any other responsible member of the household, or an authorized representative. The applicant may bring any person he or she chooses to the interview. The interviewer must not simply review the information that appears on the application but must explore and resolve with the household unclear and incomplete information. The interviewer must advise households of their rights and responsibilities during the interview, including the appropriate application processing standard and the households' responsibility to report changes. The interviewer must advise households that are also applying for or receiving PA benefits that time limits and other requirements that apply to the receipt of PA benefits do not apply to the receipt of SNAP benefits, and that households which cease receiving PA benefits because they have reached a time limit, have begun working, or for other reasons, may still qualify for SNAP benefits. The interviewer must conduct the interview as an official and confidential discussion of household circumstances. The State agency must protect the applicant's right to privacy during the interview. Facilities must be adequate to preserve the privacy and confidentiality of the interview.

(2) The State agency may use a telephone interview instead of the face-to-face interview required in [paragraph \(e\)\(1\)](#) of this section for all applicant households, for specified categories of households, or on a case-by-case basis because of household hardship situations as determined by the State agency. The hardship conditions must include, but are not limited to, illness, transportation difficulties, care of a household member, hardships due to residency in a rural area, prolonged severe weather, or work or training hours that prevent the household from participating in an in-office interview. If a State agency has not already provided that a telephone interview will be used for a household, and that household meets the State agency's hardship criteria and requests to not have an in-office interview, the State agency must offer to the household to conduct the interview by telephone.

The State agency may provide a home-based interview only if a household meets the hardship criteria and requests one. A State agency that chooses to routinely interview households by telephone in lieu of the face-to-face interview must specify this choice in its State plan of operation and describe the types of households that will be routinely offered a telephone interview in lieu of a face-to-face interview. The State agency must grant a face-to-face interview to any household that requests one.

(i) State agencies must inform each applicant of the opportunity for a face-to-face interview at the time of application and recertification and grant a face-to-face interview to any household that requests one at any time, even if the State agency has elected the option to routinely provide telephone interviews.

(ii) Like households participating in face-to-face interviews, households interviewed by any means other than the face-to-face interview are not exempt from verification requirements. However, the State agency may use special procedures to permit the household to provide verification and thus obtain its benefits in a timely manner, such as substituting a collateral contact in cases where documentary verification would normally be provided.

(iii) The use of non-face-to-face interviews may not affect the length of a household's certification period.

(iv) State agencies must provide Limited English Proficient (LEP) households with bilingual personnel during the interview as required under [§ 272.4\(b\) of this chapter](#).

(3) The State agency must schedule an interview for all applicant households who are not interviewed on the day they submit their applications. To the extent practicable, the State agency must schedule the interview to accommodate the needs of groups with special circumstances, including working households. The State agency must schedule all interviews as promptly as possible to insure eligible households receive an opportunity to participate within 30 days after the application is filed. The State agency must notify each household that misses its interview appointment that it missed the scheduled interview and that the household is responsible for rescheduling a missed interview. If the household contacts the State agency within the 30-day application processing period, the State agency must schedule a second interview. The State agency may not deny a household's application prior to the 30th day after application if the household fails to appear for the first scheduled interview. If the household requests a second interview during the 30-day application processing period and is determined eligible, the State agency must issue prorated benefits from the date of application.

## **DISCUSSION**

At initial SNAP certification, applicants are required to complete an interview for eligibility determination. On February 7, 2024, the Respondent denied the Appellant's SNAP application

when she failed to complete a required eligibility interview. The Respondent must prove by a preponderance of the evidence that the Appellant failed to complete her eligibility determination for SNAP benefits.

On January 4, 2024, the Appellant submitted an initial SNAP application. On two different occasions, specifically on January 19, 2024 and January 25, 2024, the Appellant failed to complete a required telephonic interview which resulted in the denial of her SNAP application. The Appellant indicated that she did not receive the notices informing her of the scheduled telephonic interview times, but she was working during those scheduled times and could not attend.

Pursuant to policy and federal regulations, at initial certification, an applicant for SNAP benefits must complete a face-to-face interview with an eligibility worker. This interview may be completed either by an in-person face-to-face interview or telephonically. Because the Appellant failed to complete an interview to complete her eligibility determination, the Respondent's decision to deny the Appellant's application for SNAP benefits is affirmed.

### **CONCLUSIONS OF LAW**

- 1) At initial certification for SNAP benefits, and at least every 12 months thereafter, households must complete a face-to-face interview to determine their eligibility for SNAP.
- 2) Eligibility interviews may either be face-to-face or telephonically.
- 3) The Appellant failed to complete two telephonic interviews to complete her eligibility determination for SNAP.
- 4) The Appellant did not complete the requirements to determine her eligibility for SNAP.

### **DECISION**

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

**ENTERED this \_\_\_\_ day of February 2024.**

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Eric L. Phillips  
**State Hearing Officer**