



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

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

**Christopher G. Nelson
Interim Inspector General**

January 25, 2024



RE: [REDACTED] v. WV DoHS BFA
ACTION NO.: 23-BOR-3716

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: Appellant's 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: 23-BOR-3716

**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 January 4, 2024, on a timely appeal filed December 12, 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 Tera Pendleton. The Appellant was self-represented. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case comments regarding the Appellant's case, entry dates from April 14, 2023, through December 4, 2023
- D-2 Notice dated August 21, 2023
- D-3 Verification checklist dated October 19, 2023
- D-4 Income verification

- D-5 Employment income screen print from the Respondent's data system regarding the Appellant's case
- D-6 Screen print from the Respondent's data system regarding the Appellant's eligibility review date
- D-7 West Virginia Income Maintenance Manual, Chapter 1, §1.4 (excerpt)

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 for a one-person assistance group.
- 2) On August 21, 2023, the Respondent sent a notice to the Appellant advising her, "Your SNAP benefits must be reviewed this month," and "You must complete and submit your 6 or 12 month contact form by 09/01/23...If you do not complete this contact form by the date shown above with required proof, your benefits may be stopped..." (Exhibit D-2)
- 3) The Respondent mailed the Appellant a letter on or about September 18, 2023, advising that because the SNAP review form was not provided, the Appellant's SNAP benefits would close at the end of September 2023.
- 4) The Appellant returned the SNAP review form (Exhibit D-2) on September 26, 2023.
- 5) The Respondent mailed the Appellant a verification checklist dated October 19, 2023 (Exhibit D-3), requesting the Appellant provide verification of "employment income..." with a deadline of October 30, 2023.
- 6) The Appellant provided income verification (Exhibit D-4) on November 21, 2023.
- 7) The Respondent processed the Appellant's income verification on December 4, 2023 (Exhibit D-1, December 4, 2023 entry), with the processing worker noting, "Not reopening SNAP at this time. Client will have to reapply."
- 8) The Appellant began a SNAP review cycle in April 2023 as the first month (Exhibit D-6), with September 2023 as the sixth month and October 2023 as the seventh month.

APPLICABLE POLICY

West Virginia Income Maintenance Manual, Chapter 1, §1.4.1.D, provides, in part:

When a SNAP AG is closed for failure to submit a complete Interim Contact Report (PRC-2), a new application is not needed if the PRC-2 is returned by the last day of the month in which it is due. (This will be the 12th month for cases certified for 24 months and the 6th month for cases certified for 12 months).

If the Interim Contact Report (PRC-2) is received in the 7th month or later (for cases certified for 12 months) or 13th month or later (for cases certified for 24 months), the PRC-2 **CANNOT** be processed by the agency, the AG must complete a new application to receive SNAP. In this situation, the worker will NOT update the eligibility system with any information provided on the PRC-2.

A complete Interim Contact Report is an Interim Contact Report (PRC-2) that has:

- each section answered/addressed by the AG; and
- an acceptable signature by the AG; and
- has all needed verifications of reported changes including but not limited to earned income, unearned income, self-employment income; and
- Has verification of all reported changes in expenses, although failure to provide verification of expenses will not result in loss of benefits, this will only result in loss of a deduction.

...

The PRC-2 can be processed if received by the last day of the 6th/12th month, but if no verification is included the AG **MUST** be given 10 days to return requested verification.

Proration in the 7th/13th month:

- If the AG reports changes that are needed to determine eligibility and verification is requested on the DFA-6, prorate the benefit from the date the information is returned to the agency. If verification is returned after the last day of the 7th/13th month, SNAP remains closed, and the AG must reapply
- If the AG reports only expense changes, the benefit will not be prorated. A full month's benefit will be received for the 7th/13th month. The date of the benefit is the date the PRC-2 was initially received by the agency, which will be in the 6th/12th month. When verification of the expense is received prior to confirmation in the eligibility system, the deduction will be allowed. If the expense is NOT verified, the PRC-2 is processed without the deduction. If verification of an expense is received after confirmation in the eligibility system, the verified expense is considered a reported change.

Increases/decreases to SNAP based on a reported change are effective the month following the change report.

Code of Federal Regulations Title 7 §273.12(a)(5)(iii) provides in part:

(iii) Periodic report.

(A) Exempt households. The State agency must not require the submission of periodic reports by households certified for 12 months or less in which all adult members are elderly or have a disability with no earned income.

(B) Submission of periodic reports by non-exempt households. Households that are certified for longer than 6 months, except those households described in [§ 273.12\(a\)\(5\)\(iii\)\(A\)](#), must file a periodic report between 4 months and 6 months, as required by the State agency. Households in which all adult members are elderly or have a disability with no earned income and are certified for periods lasting between 13 months and 24 months must file a periodic report once a year. In selecting a due date for the periodic report, the State agency must provide itself sufficient time to process reports so that households that have reported changes that will reduce or terminate benefits will receive adequate notice of action on the report in the first month of the new reporting period.

(C) The periodic report form must request from the household information on any changes in circumstances in accordance with [paragraphs \(a\)\(1\)\(i\) through \(a\)\(1\)\(vii\)](#) of this section and conform to the requirements of [paragraph \(b\)\(2\)](#) of this section.

(D) If the household files a complete report resulting in reduction or termination of benefits, the State agency shall send an adequate notice, as defined in [§ 271.2 of this chapter](#). The notice must be issued so that the household will receive it no later than the time that its benefits are normally received. If the household fails to provide sufficient information or verification regarding a deductible expense, the State agency will not terminate the household, but will instead determine the household's benefits without regard to the deduction.

(E) If a household fails to file a complete report by the specified filing date, the State agency shall provide the household with a reminder notice advising the household that it has 10 days from the date the State agency mails the notice to file a complete report. If an eligible household files a complete periodic report during this 10 day period, the State agency shall provide it with an opportunity to participate no later than ten days after its normal issuance date. If the household does not respond to the reminder notice, the household's participation shall be terminated and the State agency must send an adequate notice of termination described in [paragraph \(a\)\(5\)\(iii\)\(C\)](#) of this section.

(F) If an eligible household that has been terminated for failure to file a complete report files a complete report after its extended filing date under (E), but before the end of the issuance month, the State agency may choose to reinstate the household. If the household has requested a fair hearing on the basis that a complete periodic

report was filed, but the State does not have it, the State agency shall reinstate the household if a completed periodic report is filed before the end of the issuance month.

...

DISCUSSION

The Appellant requested a hearing to appeal the Respondent's decision to terminate the Appellant's SNAP benefits due to the Appellant's failure to provide a completed PRC-2 SNAP review form. The Respondent must show, by a preponderance of the evidence, that it correctly closed the Appellant's SNAP benefits on this basis.

The Appellant is a recipient of SNAP benefits, and her most recent SNAP review cycle began on April 2023 (Exhibit D-6). The Appellant was required to return an Interim Contact form, or PRC-2, and was sent this form with a deadline to return the form by September 1, 2023. (Exhibit D-2) The Appellant returned the PRC-2 – but not a complete PRC-2 – on September 26, 2023. This form was incomplete because policy defines a complete Interim Contact form as one including "...all needed verifications of reported changes," including earned income verification.

The Appellant reported at review that she was still employed but was not receiving any work hours or income. The Respondent requested verification to show the Appellant was no longer receiving income. This reported change was not one solely related to deductions but was "needed to determine eligibility." The Respondent issued a verification checklist (Exhibit D-3) on October 19, 2023, requesting this information by October 30, 2023. The Appellant provided the income verification needed to perfect the PRC-2 on November 21, 2023. The Appellant vaguely testified at one point during the hearing that she provided what the Respondent needed on August 30, 2023 – prior to the date established when she submitted her review form, and prior to the Respondent's specific request for verification of her 'zero income' status – but this testimony is unconvincing for those reasons. The income verification itself (Exhibit D-4) is dated November 21, 2023, on headers for multiple pages.

The Appellant therefore, did not provide a completed PRC-2 until after the 7th month of a 12-month review cycle, the Respondent correctly terminated SNAP benefits on this basis, and the Appellant must reapply to be reconsidered for SNAP benefits as noted in WVIMM §1.4.1.D.

CONCLUSIONS OF LAW

- 1) Because the Appellant was certified for SNAP benefits in April 2023 with a twelve-month review cycle, she was required to provide a complete Interim Contact Report form, or PRC-2, by the end of the 6th month, or September 2023.
- 2) Because the Appellant provided a PRC-2 prior to the end of September 2023 which lacked information "needed to determine eligibility," the Respondent allowed the Appellant until

the end of the 7th month, or October 2023, to additionally provide the necessary income verification.

- 3) Because the Appellant returned the necessary income verification on November 21, 2023, the Respondent correctly terminated SNAP benefits and the Appellant must reapply for future consideration of SNAP eligibility.

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 (SNAP) benefits.

ENTERED this _____ day of January 2024.

**Todd Thornton
State Hearing Officer**