



March 11, 2025

**REMOVED**

RE: **REMOVED** v. WV DoHS/BFA  
ACTION NO.: 25-BOR-1310

Dear **REMOVED**

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,

Tara Thompson, MLS  
State Hearing Officer  
Member, State Board of Review

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

cc: Danielle Davis, DoHS

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

**REMOVED**

**Appellant,**

**v.**

**Action Number: 25-BOR-1310**

**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 **REMOVED**. 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 February 26, 2025.

The matter before the Hearing Officer arises from the Respondent's January 17, 2025 decision to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Danielle Davis. The Appellant appeared pro se. All witnesses were sworn 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) On December 16, 2024, a SNAP review form was mailed to the Appellant's address of record and advised him of a SNAP review appointment scheduled for January 8, 2025.
- 2) On January 8, 2025, the Appellant missed his scheduled appointment with the Respondent to complete his SNAP review.
- 3) On January 9, 2025, the Respondent mailed notification to the Appellant that he missed his scheduled SNAP review appointment and that it was his responsibility to reschedule the appointment.
- 4) On January 17, 2025, the Respondent notified the Appellant his SNAP benefits would end after January 2025, because the Appellant did not complete an eligibility review.
- 5) The January 17, 2025 notice instructed:

If you do complete a Review, your benefits may be reopened, but they may be delayed. If you do not complete this interview and do not contact the worker listed above, your SNAP benefits will stop. You will not receive this benefit after January 31, 2025.

- 6) Under *Important Information*, the January 17, 2025 notice provided, "You may request an application from this office and submit it with at least your name, address, and signature."
- 7) The December 16, 2024, January 9, and January 17, 2025 notices were issued to the Appellant's address of record: 3538 Smithton Road, West Union, WV 26456.
- 8) On February 5, 2025, the Respondent received a fair hearing request form from the Appellant that reflected **REMOVED** as the Appellant's handwritten mailing address.
- 9) Ms. Davis attempted to call the Appellant at his telephone number of record on February 5, 6, and 7, 2025 and left voicemails advising that the Appellant needed to complete his form and reschedule his review.
- 10) The Appellant did not complete a SNAP review form or complete an eligibility interview.

## **APPLICABLE POLICY**

**West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 *Client Responsibilities*** provides that the client has the responsibility to report information about their circumstances so that the worker can make a correct determination about their eligibility.

**Code of Federal Regulations 7 CFR § 273.2(d)(1) *Household Cooperation*** provides:

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.... The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility ... 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 ....

**Code of Federal Regulations 7 CFR § 273.2(e)(1) *Interviews*** provides:

Except for households certified for longer than 12 months, and except as provided in paragraph (e)(2) of this section, households must have face-to-face interviews with an eligibility worker at initial certification and at least once every 12 months thereafter.

**Code of Federal Regulations 7 CFR § 273.12 *Reporting Requirements*** provides:

(a) *Household Responsibility to report.*

(2) Certified households must report changes within 10 days of the date the change becomes known to the household, or at the State agency's option, the household must report changes within 10 days of the end of the month in which the change occurred ...

(4) The State agency may establish a system of quarterly reporting in lieu of the change reporting requirements specified under paragraph (a)(1) of this section. The following requirements are applicable to quarterly reporting systems:

(iii) *Failure to file a complete form by the specified filing date.* If a household fails to file a complete report by the specified filing date, the State agency will send a notice to the household advising it of the missing or incomplete report ... If the household does not respond to the notice, the household's participation shall be terminated. The State agency may combine the notice of missing or

incomplete report with the adequate notice of termination described in paragraph (a)(4)(v) of this section.

(5) The State agency may establish a simplified reporting system in lieu of the change reporting requirements specified under paragraph (a)(1) of this section ...:

(iii) *Periodic Report*

(B) Submission of periodic reports by non-exempt households. Households that are certified for longer than 6 months ... must file a periodic report between 4 months and 6 months, as required by the State agency. ... 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 ....

(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 ...

## **DISCUSSION**

The Respondent terminated the Appellant's SNAP benefit eligibility because he failed to complete an eligibility review. The Appellant argued he did not complete his review because he did not receive a notice that it was due. At the onset of the hearing, the Appellant affirmed his address of record.

The Board of Review is required to follow the controlling policies and regulations and cannot grant SNAP eligibility exceptions beyond the conditions stipulated within the federal regulations and the agency's policies. The Respondent bears the burden of proof and had to demonstrate by a preponderance of evidence that the Appellant refused to cooperate with his SNAP eligibility review and interview.

### **Notification of SNAP Review**

The Appellant was required to complete a SNAP eligibility review form and telephone interview. The Respondent issued a written notice to the Appellant's address of record advising him of his responsibility to complete and return the SNAP review form. The policy stipulates that if a household fails to complete a review, the agency must send a notice to the household advising of the missing review. Under the policy, if the household does not respond to the notice, the household's SNAP participation will be terminated.

During the hearing, the Respondent's representative testified that the Appellant's combined review form and appointment notice was mailed on December 16, 2024. The preponderance of evidence revealed that after the Appellant missed his review appointment, a notice was issued on January 9, 2025, advising the Appellant his SNAP benefits would end after January 31, 2025, if he did not complete his review. The notice instructed that the Appellant may request an application and submit it.

During the hearing, the Appellant argued that he did not receive notification of his SNAP review. The Appellant testified that where he receives mail, other recipients place mail in incorrect boxes and throw mail away. The Respondent's representative testified that there were known mail issues in [REMOVED] County, West Virginia — specifically in [REMOVED] — after a large snowstorm and that recipients were receiving their mail late. The submitted testimony did not indicate what dates [REMOVED] experienced mail delay. The submitted information did not indicate that the snow delay impacted delivery of each notice issued to the Appellant. The Respondent's representative did not offer any testimony of direct knowledge of a specific known mail issue related to the Appellant's receipt of mail or a specific delayed mail issues in [REMOVED] County, West Virginia, where the Appellant resides. No evidence was submitted to indicate that the Appellant had notified the Respondent of his issues receiving mail before the submission of his February 5, 2025 hearing request form.

On January 17, 2025, the Respondent mailed a third notice advising the Appellant if he did not complete his review and contact the Respondent, his SNAP benefits would end after January 31, 2025. The Appellant did not dispute receiving the Respondent's January 17, 2025 notice or indicate that receipt of the notice was delayed. The notice instructed the Appellant that if he did not complete a review, his SNAP benefits would be terminated. The notice advised the Appellant that he could request an application from the Respondent. On February 5, 2025, the Appellant submitted a fair hearing request in protest of the January 17, 2025 adverse action notice.

Even if a mail delay had postponed prompt delivery of the December 16, 2024 notice or the January 9, 2025 notice, the submitted evidence did not indicate that there was a delayed delivery of each notice issued to the Appellant. The notices provided with the Appellant's hearing request indicated that each notice was mailed to the Appellant's address of record.

The Board of Review does not have the authority to resolve issues with mail delivery and can only determine if the Respondent has correctly mailed notices to the Appellant's reported address, as required by the policy and regulations. The Respondent's representative offered reliable testimony indicating the Respondent issued written notice to the Appellant's address of record advising he must complete his review. The preponderance of evidence revealed the Respondent issued the required subsequent notice to the Appellant's address of record, advising him of the failure to submit the review form. The submitted evidence revealed that the Respondent followed the policy when notifying the Appellant of his responsibility to complete the SNAP eligibility review.

### **Refusal to cooperate in a SNAP eligibility review**

Federal regulations stipulate that a refusal to cooperate in SNAP eligibility reviews results in termination of SNAP eligibility. The policy stipulates that for a refusal to be made, the household

must be able to cooperate but clearly demonstrated that it would not take actions that it could take and that are required to complete the review process.

The evidence revealed that the Appellant was provided with sufficient notice of his requirement to complete his eligibility review. The notices indicated the Appellant must complete the review or his SNAP benefits would be terminated after January 2025.

The preponderance of evidence indicated that the Appellant did not attempt to contact the Respondent until he submitted his hearing request form on February 5, 2025, nineteen (19) days after the Respondent's January 17, 2025 notice was issued.

The Respondent's representative testified that she tried to call the Appellant and left a voicemail that he just needed to complete his form and reschedule his review. The Respondent's representative testified that the Appellant did not return her calls. The Respondent's representative testified that she called back on February 6, and February 7, 2025, and left another voicemail. The Respondent's representative testified that she communicated with the Appellant at his telephone number of record. The Appellant did not dispute that the Respondent attempted to call him back and testified that he did not receive the messages. The Appellant did not provide a reason for not being able to receive the Respondent's messages.

At the time of the hearing, the Appellant had not submitted a review form. During the hearing, the Appellant testified that the Respondent's representative accurately testified to the events.

The preponderance of evidence indicated the Appellant could have notified the Respondent of his mailing issues and could have contacted the Respondent after receiving the January 17, 2025 notice to complete the review, but did not complete a review. As the Appellant failed to take steps that he could have taken to complete his review, the evidence established that the Appellant refused to cooperate with the review process as required.

### **CONCLUSIONS OF LAW**

- 1) A household that refuses to cooperate in a SNAP eligibility review shall be determined ineligible.
- 2) For a 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.
- 3) The preponderance of evidence demonstrated that the Appellant did not take the actions he could take by failing to report mailing issues or contact the Respondent to complete his review after receiving the January 17, 2025 notice.
- 4) Because the Appellant did not complete a SNAP eligibility review and interview, the Respondent correctly terminated his SNAP benefit eligibility.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's SNAP benefits because he failed to complete a review.

**ENTERED this 11<sup>th</sup> day of March 2025.**

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Tara Thompson, MLS  
**State Hearing Officer**