



October 14, 2025



RE: [REDACTED] v. WVDohS  
ACTION NO.: 25-BOR-2925

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 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  
Certified State Hearing Officer  
Member, State Board of Review

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

cc: Paul Patrick, BFA

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

██████████,

**Appellant,**

**v.**

**Action Number: 25-BOR-2925**

**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 October 9, 2025, on an appeal filed with the Board of Review on September 2, 2025.

The matter before the Hearing Officer arises from a denial of eligibility for Summer Electronic Benefit Transfer (S-EBT) benefits to the Appellant

At the hearing, the Respondent appeared by Richard Griffey, Economic Service Worker Senior. The Appellant was self-represented. All witnesses were placed under oath and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1    Hearing Summary
- D-2    Electronic Mail Correspondence dated September 22, 2025
- D-3    WVDHS Referral and Communications Form dated September 22, 2025

**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 has custody of a foster child, [REDACTED] (Exhibit D-3)
- 2) [REDACTED] was removed from parental care in November 2024.
- 3) [REDACTED] has been in the custody of the Appellant since April 2025.
- 4) The child was in a previous foster care placement prior to her relocation with the Appellant.
- 5) The Appellant has another adopted child in her home.
- 6) The Appellant received S-EBT benefits for her adopted child.
- 7) The Appellant did not receive S-EBT benefits for [REDACTED]
- 8) S-EBT benefits allocated for [REDACTED] were issued to her mother's Supplemental Nutrition Assistance Program (SNAP) case.
- 9) The Appellant had no active case with the Respondent prior to the issuance of S-EBT benefits.

### **APPLICABLE POLICY**

**West Virginia Income Maintenance Manual 20.5.B** documents:

Students who fall into any of the following categories are considered directly certified and categorically eligible. Therefore, they are not required to complete an SEBT application. A student is approved for streamlined certification if they are:

- Approved by an application for NSLP; or
- Receiving SNAP (including SNAP households certified at 200% FPL). Excludes children receiving a "zero-dollar benefit"; or
- Receiving WV WORKS/TANF; or
- Receiving Medicaid at or below 185% FPL (MGKF, MGKS, or MGPR only), or
- Receiving a Foster care payment (does not include Adoption or Kinship payments); or
- Is homeless as determined by WVDE; or
- Is a migrant as determined by WVDE; or
- Is a runaway as determined by WVDE; or
- Is attending WV Head Start as determined by WVDE.

**West Virginia Income Maintenance Manual 20.5.7.C documents:**

Both lists (applicants and streamlined certified) of qualified students will be cross referenced from all data sources to ensure each qualified student only receives a single SEBT benefit. Any student whose record appears more than once will be removed to only produce a single benefit. When a student is missed and is issued more than a single SEBT benefit, the additional benefits will be removed from the EBT card once discovered. These cases will not be forwarded to OIG, unless it is discovered the household used a benefit they were not qualified to receive.

**West Virginia Income Maintenance Manual 20.5.8 documents:**

Students experiencing homelessness: WVDE will communicate Summer EBT information with participating schools and make information available to each Homeless Services Liaison within public school systems.

At every benefit application and redetermination, DoHS eligibility staff is required to discuss household living situations. This includes whether a family is unhoused or housing insecure. This allows the agency to better serve our more vulnerable families.

Foster students: Students in foster placement will receive benefits on the same schedule as non-foster students. DoHS will collaborate with the Bureau for Social Services for dissemination of program information to foster guardians and kinship placements. PATH data will be utilized to issue benefits for foster students. DoHS Social Services will inform Family Assistance/Office of EBT when a child has changed residency. DoHS will work to ensure the current guardian receives the Summer EBT benefit on behalf of the student in state's care.

Lack of Social Security Number: West Virginia's Summer EBT plan will not require social security numbers for benefit issuance. Each student has a WVEIS number that is not affiliated with private social security numbers. The WVEIS number will be utilized for verification when guardians contact the Summer EBT hotline. DoHS collects social security numbers for all students who are directly certified through receipt of a qualified benefit. Social security numbers for these students have been collected as a regulatory requirement of another public assistance program.

Households with Limited English Proficiency: 95% of West Virginia residents speak English as their first or preferred language. For the 5% of residents who are considered to have limited English proficiency, DoHS will utilize the agency's interpreter service that is regularly used for other DoHS benefits. Also, household notification will be available in Spanish upon request.

Households without Internet access: DoHS will provide county office notification using paper flyers. All 54 DoHS field offices will make paper Summer EBT applications available for households without or having limited internet access. All benefit determination notifications will be sent to the household in the form of a mass mailing. This includes families who qualify based upon direct-certification status.

Individuals with Disabilities: The state will comply with the Americans with Disability Act (ADA). DoHS is required to provide accommodations to individuals with disabilities who face a barrier to applying or participating in a program. These individuals include those in wheelchairs and other navigation devices. The state will provide ANY reasonable accommodation for individuals living with a disability. DoHS employs a statewide ADA Coordinator tasked with maintaining agency compliance with ADA standards and ensuring access for all DoHS clients, including those with disabilities.

**Code of Federal Regulations 7 § 292.2** defines categorically eligible as:

Considered income eligible for Summer EBT, as applicable, based on documentation that a child is a member of a *household*, as defined in this section, and one or more children in that household are receiving assistance under *SNAP*, *TANF*, or *FDPIR*, or another means tested program, as approved by the Secretary. A *foster child*, *homeless child*, a *migrant child*, a *Head Start child* and a *runaway child*, as defined in [§ 245.2 of this chapter](#), are also categorically eligible. Categorical eligibility and automatic eligibility may be used synonymously.

**Code of Federal Regulations 7 § 292.12** documents in pertinent part:

(f) *Notice of approval* —

(1) ***Income applications.*** The Summer EBT agency must notify (or place notification in the mail) eligible households of a child's approved status within 15 operational days of receipt of a complete application. This may be included in the mailing containing the EBT card, if applicable, or other communication informing the household about the issuance or use of benefits.

(2) ***Streamlined certification.*** Households approved for benefits based on information provided by the appropriate State or local agency responsible for the administration of a means-tested program that has been approved by the Secretary must be notified, in writing, that their children are eligible for Summer EBT and that no application is required. The notice of approval must also inform the household how to opt-out if they do not want their children to receive Summer EBT benefits.

(3) ***Households declining benefits.*** Children from households that notify the Summer EBT agency that they do not want Summer EBT benefits must not be issued benefits, or have their

benefits expunged as soon as possible if already issued. Any notification from the household declining benefits must be documented and maintained on file, as required under [§ 292.23](#), to substantiate the change in benefits. Because any expungement in this instance is at the request of the household, the 30-day household notice typically required for expunging benefits is not required in this instance.

(4) ***Duplicate benefit issuance.*** Summer EBT agencies must include in the notice of approval a statement communicating that households that are erroneously issued duplicate benefits from more than one State or ITO should only use benefits from the State or ITO where their child(ren) completed the instructional year immediately preceding the summer operational period. Under no circumstances may they use both.

(g) ***Denied applications and the notice of denial.*** When the application furnished by a household is not complete or does not meet the eligibility criteria for Summer EBT benefits, the Summer EBT agency must document and retain the reasons for ineligibility and must retain the denied application. In addition, the Summer EBT agency must provide written notice to each household denied benefits within 15 operational days of receipt of a complete application. At a minimum, this notice must include:

- (1) The specific reason or reasons for the denial of benefits, *e.g.*, income in excess of allowable limits or incomplete application;
- (2) Notification of the right to appeal;
- (3) Instructions on how to appeal; and
- (4) A statement reminding households that they may reapply for benefits at any time.

(h) ***Appeals of denied benefits.*** A household that wishes to appeal an application that was denied may do so in accordance with the procedures established by the Summer EBT agency as required by [§ 292.26](#). However, prior to initiating the hearing procedure, the household may request a conference to provide the opportunity for the household to discuss the situation, present information, and obtain an explanation of the data submitted in the application or the decision rendered. The request for a conference must not in any way prejudice or diminish the right to a fair hearing. The Summer EBT agency must promptly schedule a fair hearing, if requested.

(i) ***Confidential nature of streamlined certification information.*** Information about children or their households obtained through the streamlined certification process must be kept confidential and is subject to the limitations on disclosure of information in section 9 of the Richard B. Russell National School Lunch Act, [42 U.S.C. 1758](#).

## **DISCUSSION**

The Appellant is responsible for the care of a foster child, [REDACTED] The Respondent failed to auto-

issue Summer EBT (S-EBT) benefits to the Appellant's child based on her foster status. The Appellant appeals the Respondent's failure to auto-issue S-EBT benefits, citing her responsibility for care of the child. The Respondent must prove by a preponderance of the evidence that the child was not eligible for S-EBT benefits.

The child was removed from her familial household in November 2024. The child was temporarily placed in a foster placement and relocated to the Appellant's home in April 2025. S-EBT benefits earmarked for the foster child were automatically issued to the child's mother's family assistance case. (Exhibit D-2)

The S-EBT program is coordinated from June 2025 through September 2025, serving vulnerable populations of students through the West Virginia Department of Education. The Appellant did not have a family assistance case with the Respondent but questioned the foster child's receipt of S-EBT benefits when she received an automatic issuance of the benefit for another child in her care. On September 22, 2025, the Respondent determined from the Bureau of Social Services that the foster child has been in the care and custody of the Appellant. (Exhibit D-3)

According to governing policy and federal regulations, students in foster placement are considered categorically eligible to receive S-EBT and will receive the benefits on the same schedule as non-foster students. The Department of Human Services (DoHS) will collaborate with the Bureau of Social Services for dissemination of program information to foster guardians and kinship placements. DoHS Social Services will inform Family Assistance/Office of EBT when a child has changed residency.

Based on an evidentiary review, the Bureau of Social Services was aware of the removal of the child from her familial residence in November 2024 but failed to communicate the removal to the Respondent. Because the foster child is categorically eligible to receive S-EBT, she is entitled to receive the S-EBT from the Respondent. Therefore, the Respondent's decision to deny issuance of S-EBT benefits is incorrect.

### **CONCLUSIONS OF LAW**

- 1) Federal regulations determine that foster children are categorically eligible to receive S-EBT benefits.
- 2) Governing policy dictates that the Department of Human Services' Bureau of Social Services will inform the Family Assistance/Office of EBT when a child has changed residency.
- 3) The Appellant's foster child was placed in her care and custody in April 2025.
- 4) The S-EBT program runs from June 2025 through August 2025.
- 5) The Respondent's Bureau of Social Services was aware of the foster placement of the child but failed to communicate the placement with the Bureau of Family Assistance.

- 6) The Appellant's foster child is eligible to receive an automatic issuance of S-EBT benefits.

**DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to deny the Appellant's request for S-EBT benefits.

**ENTERED this \_\_\_\_ day of October 2025.**

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Eric L. Phillips  
**Certified State Hearing Officer**