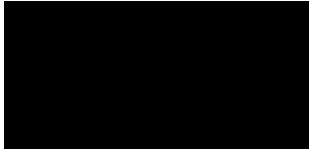




December 10, 2025



RE: [REDACTED] v. WVDohS
ACTION NO.: 25-BOR-3263

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: Austin Pack, BFA

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

[REDACTED]

Appellant,

v.

Action Number: 25-BOR-3263

**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 [REDACTED]. 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 December 3, 2025, on an appeal filed with the Board of Review on November 6, 2025.

The matter before the Hearing Officer arises from the November 19, 2025 decision by the Respondent to terminate Supplemental Nutrition Assistance Program benefits.

At the hearing, the Respondent appeared by Austin Pack, 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 Case Comments
- D-3 Verification Checklist dated November 7, 2025
- D-4 Verification Checklist dated November 7, 2025
- D-5 Notice of Decision dated November 7, 2025
- D-6 Notice of Decision dated November 19, 2025
- D-7 October 2025 Bank Statement
- D-8 Wage Data Exchange for [REDACTED] dated October 1, 2025
- D-9 West Virginia Income Maintenance Manual Chapter 4
- D-10 West Virginia Income Maintenance Manual Chapter 10.4
- D-11 Letter from [REDACTED] Health systems dated November 6, 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 was a recipient of SNAP benefits.
- 2) The Appellant's household consists of himself and two foster children.
- 3) The Appellant is a Certified Resource Foster Parent with [REDACTED] (Exhibit D-11)
- 4) The Appellant receives a reimbursement from [REDACTED] at a rate of \$25.00 per child, per day.
- 5) The Appellant's income from [REDACTED] was unknown to the Respondent.
- 6) On November 7, 2025, the Respondent issued a Verification Checklist to the Appellant requesting proof of the foster care income. (Exhibit D-3)
- 7) The Appellant is employed as a [REDACTED].
- 8) The Respondent became aware of the employment income through a data exchange wage match which revealed \$5512.00 in Appellant earnings for the second quarter of 2025 (April 2025 through June 2025). (Exhibit D-8)
- 9) On November 7, 2025, the Respondent issued an additional Verification Checklist to the Appellant, due November 17, 2025, requesting verification of employment income from Choice for the "last 30 days worth of pay dates 11/4/25, 10/28/25, 11/21/25, and 11/25 [sic]". (Exhibit D-4)
- 10) The Appellant provided a statement from [REDACTED] but it failed to document a total monthly amount for reimbursement. (Exhibit D-11)
- 11) The Appellant did not provide verification of his employment income.
- 12) On November 7, 2025, the Appellant provided a bank statement documenting regular salary deposits from [REDACTED] (Exhibit D-7)

- 13) On November 19, 2025, the Respondent issued a Notice of Decision which indicated that the Appellant's SNAP benefits would terminate effective December 31, 2025, due to excessive income and his failure to verify all requested information. (Exhibit D-5)
- 14) On November 20, 2025, the Respondent discovered through a data exchange that one of the foster children is receiving monthly adoption assistance in the amount of \$800.00.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 10.4.2.A documents:

When approved with a gross non-excluded income at or below 130% of the Federal Poverty Level (FPL), an AG must report when the total gross non-excluded earned and unearned income of the Income Group (IG) exceeds 130% of the FPL for the number of individuals in the original AG.

When approved with a gross non-excluded income above 130% of the FPL, an AG must report when the total gross non-excluded earned and unearned income of the IG exceeds 200% of the FPL for the number of individuals in the original AG.

If an AG approved with income at or below 130% of the FPL reports non-excluded income in excess of 130% of the FPL, the AG's eligibility must be reevaluated. If the AG remains eligible for SNAP, the AG is then required to report when the total gross non-excluded earned and unearned income of the Income Group exceeds 200% of the FPL for the number of individuals in the original AG.

If an AG approved with income above 130% of the FPL reports non-excluded income at or below 130% of the FPL, the AG's eligibility must be reevaluated. If the AG remains eligible for SNAP, the AG is then required to report when the total gross non-excluded earned and unearned income of the Income Group exceeds 130% of the FPL for the number of individuals in the original AG.

If the household contains one or more Able-Bodied Adults Without Dependents (ABAWDs) who are exempt from the ABAWD work requirements, the household must report when an ABAWD loses his exemption or when that person's work hours are reduced to less than 20 hours a week, averaged monthly. These changes must be reported no later than the 10th calendar day of the month following the month in which the change occurs.

An individual in a sole AG or who purchases and prepares with others is required to report if they receive substantial lottery or gaming winnings greater than or equal to the SNAP asset limit for AGs containing an elderly or disabled individual during any one game. This information should always be acted upon by the agency including application, recertification or during the certification period.

No other changes are made unless the information is reported by an AG member, comes from a source that is verified upon receipt, or is received from a source that is considered reported.

West Virginia Income Maintenance Manual Chapter 10.4.2.B.1 documents:

Action must be taken for all AGs when information is received from a source that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the primary source of the information. The only sources considered verified upon receipt are:

- Beneficiary Earnings and Data Exchange (BENDEX) and State Data Exchange (SDX) from the Social Security Administration (SSA)
- Cost-of-living adjustment (COLA) Mass Change and reports in Appendix B
- Systematic Alien Verification for Entitlement (SAVE) from United State Citizenship and Immigration Services (USCIS) and 40 Qualifying Quarters information from SSA
- Unemployment Compensation (UC) and work registration data from WorkForce West Virginia
- Investigations and Fraud Management (IFM) findings of an investigation
- VA match with OIG findings
- Notification of application for benefits in another state
- Report from Social Service Worker
- Child Welfare Information System Provider and Client Detail Data Exchanges
- Housing and Urban Development (HUD)
- State On-Line Query (SOLQ)
- Notification of ABAWD cooperation/non-cooperation from a SNAP Employment and Training (E&T) Worker
- Information received from the WV Lottery Commission for SNAP Substantial Lottery and Gaming policy

West Virginia Income Maintenance Manual Chapter 4.4.1.B documents:

The Worker must consider information about the client's income sources before deciding which income to use. The Worker must follow the steps below for each old income source.

Step 1: Determine the amount of income received by all persons in the Income Group (IG) in the 30 calendar days prior to the application/redetermination date, or interview date when the interview is completed on a different day than when the application is received.

The appropriate time period is determined by counting back 30 days beginning with the calendar day prior to the date of application/redetermination. However, if the interview is completed on a different day than when the date the application/redetermination is received, the 30-day look-back period could begin

the day before the interview date. The income from this 30-day period is the minimum amount of income that must be considered. When, in the Worker's judgment, future income may be more reasonably anticipated by considering the income from a longer period of time, the Worker considers income for the time period he determines to be reasonable. Whether the Worker considers income from the prior 30 days, or from a longer period of time, all of the income received from that source during that time period must be considered. All pay periods during the appropriate time period must be considered and must be consecutive.

If the client provided sufficient income verification on the date the application/redetermination is received, then additional verification is not required at interview.

The year-to-date amounts on check stubs may only be used when the client has verification of all payment amounts whether used or not but is missing one.

West Virginia Income Maintenance Manual Chapter 7.2

Verification of a client's statement is required when:

- Policy requires routine verification of specific information.
- The information provided is questionable. To be questionable, it must be:
 - o Inconsistent with other information provided; or
 - o Inconsistent with the information in the case file; or
 - o Inconsistent with information received by the Department of Human Services (DOHS) from other sources; or
 - o Incomplete; or
 - o Obviously inaccurate; or
 - o Outdated.
- Past experience with the client reveals a pattern of providing incorrect information or withholding information. A case recording must substantiate the reason the Worker questions the client's statement.
- The client does not know the required information.

West Virginia Income Maintenance Manual Chapter 7.2.3 documents:

The primary responsibility for providing verification rests with the client.

It is an eligibility requirement that the client cooperate in obtaining necessary verifications, with an exception being that a client must never be asked to provide verification that he is or is not either a fleeing felon or a probation/parole violator. The client is expected to provide information to which he has access and to sign authorizations needed to obtain other information.

Failure of the client to provide necessary information or to sign authorizations for release of information results in denial of the application or closure of the active

case, provided the client has access to such information and is physically and mentally able to provide it.

Refusal to cooperate, failure to provide necessary information, or failure to sign authorizations for release of information, provided the client has access to such information and is physically and mentally able to provide it, may result in one of the following:

- Denial of the application
- Closure of the assistance group (AG)
- Determination of ineligibility
- Disallowance of an income deduction or an incentive payment

West Virginia Income Maintenance Manual 9.2.1.A documents:

The date entered in the DFA-6 must be 10 days from the date of issuance.

If information involving an eligibility factor is not provided by the date indicated, and the client has not contacted the Worker to explain the delay, the application is denied using a DFA-NL-A. If eligibility is established, but the client does not provide proof of entitlement to a deduction, the deduction is not allowed, but the assistance group (AG) is approved. The DFA-NL-A is used for notification of approval.

Federal regulations require that the DFA-6 be given to the client no later than 30 days after the date of application. He must also be allowed 10 days to respond to the DFA-6. The Worker must issue benefits retroactive to the date of application if the client supplies the needed information within the 30-day time limit.

The section following the Worker's signature must be completed for SNAP AGs only.

The Worker enters the date that is 60 days from the date of application. When the AG is denied for failure to provide information required to determine eligibility and subsequently provides the requested information within 60 days of the original application, a new DFA-2, Application for Benefits, is not required. If the information is not provided by the date requested, a DFA-NL-A must be sent for denial of eligibility.

West Virginia Income Maintenance Manual Chapter 4 documents:

FOSTER CARE PAYMENTS-Counted as unearned income.

The AG has the choice of including the foster child or not.

If the foster child is included, the income is unearned.

If the foster child is not included, income is excluded.

Code of Federal Regulations 273.10 documents:

Calculating net income and benefit levels —

(1) *Net monthly income.*

(i) To determine a household's net monthly income, the State agency shall:

(A) Add the gross monthly income earned by all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income. Net losses from the self-employment income of a farmer shall be offset in accordance with [§ 273.11\(a\)\(2\)\(iii\)](#).

(B) Multiply the total gross monthly earned income by 20 percent and subtract that amount from the total gross income; or multiply the total gross monthly earned income by 80 percent and add that to the total monthly unearned income, minus income exclusions. If the State agency has chosen to treat legally obligated child support payments as an income exclusion in accordance with [§ 273.9\(c\)\(17\)](#), multiply the excluded earnings used to pay child support by 20 percent and subtract that amount from the total gross monthly income.

(C) Subtract the standard deduction.

(D) If the household is entitled to an excess medical deduction as provided in [§ 273.9\(d\)\(3\)](#), determine if total medical expenses exceed \$35. If so, subtract that portion which exceeds \$35.

(E) Subtract allowable monthly dependent care expenses, if any, as specified under [§ 273.9\(d\)\(4\)](#) for each dependent.

(F) If the State agency has chosen to treat legally obligated child support payments as a deduction rather than an exclusion in accordance with [§ 273.9\(d\)\(5\)](#), subtract allowable monthly child support payments in accordance with [§ 273.9\(d\)\(5\)](#).

(G) Subtract the homeless shelter deduction, if any, up to the maximum of \$143.

(H) Total the allowable shelter expenses to determine shelter costs, unless a deduction has been subtracted in accordance with [paragraph \(e\)\(1\)\(i\)\(G\)](#) of this section. Subtract from total shelter costs 50 percent of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction according to [paragraph \(e\)\(1\)\(i\)\(I\)](#) of this section.

(I) Subtract the excess shelter cost up to the maximum amount allowed for the area (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other applicable deductions. Households not subject to a capped shelter expense shall have the full amount exceeding 50 percent of their net income subtracted. The household's net monthly income has been determined.

(ii) In calculating net monthly income, the State agency shall use one of the following two procedures:

(A) Round down each income and allotment calculation that ends in 1 through 49 cents and round up each calculation that ends in 50 through 99 cents; or

(B) Apply the rounding procedure that is currently in effect for the State's Temporary Assistance for Needy Families (TANF) program. If the State TANF program includes the cents in income calculations, the State agency may use the same procedures for SNAP income calculations. Whichever procedure is used, the State agency may elect to include the cents associated with each individual shelter cost in the computation of the shelter deduction and round the final shelter deduction amount. Likewise, the State agency may elect to include the cents associated with each individual medical cost in the computation of the medical deduction and round the final medical deduction amount.

(2) *Eligibility and benefits.*

(A) Households which contain an elderly or disabled member as defined in [§ 271.2](#), shall have their net income, as calculated in [paragraph \(e\)\(1\)](#) of this section (except for households considered destitute in accordance with [paragraph \(e\)\(3\)](#) of this section), compared to the monthly income eligibility standards defined in [§ 273.9\(a\)\(2\)](#) for the appropriate household size to determine eligibility for the month.

(B) In addition to meeting the net income eligibility standards, households which do not contain an elderly or disabled member shall have their gross income, as calculated in accordance with [paragraph \(e\)\(1\)\(i\)\(A\)](#) of this section, compared to the gross monthly income standards defined in [§ 273.9\(a\)\(1\)](#) for the appropriate household size to determine eligibility for the month.

(C) For households considered destitute in accordance with [paragraph \(e\)\(3\)](#) of this section, the State agency shall determine a household's eligibility by computing its gross and net income according to [paragraph \(e\)\(3\)](#) of this section, and comparing, as appropriate, the gross and/or net income to the corresponding income eligibility standard in accordance with [§ 273.9\(a\)\(1\)](#) or [\(2\)](#).

(D) If a household contains a member who is fifty-nine years old on the date of application, but who will become sixty before the end of the month of application,

the State agency shall determine the household's eligibility in accordance with [paragraph \(e\)\(2\)\(i\)\(A\)](#) of this section.

(E) If a household contains a student whose income is excluded in accordance with [§ 273.9\(c\)\(7\)](#) and the student becomes 18 during the month of application, the State agency shall exclude the student's earnings in the month of application and count the student's earnings in the following month. If the student becomes 18 during the certification period, the student's income shall be excluded until the month following the month in which the student turns 18.

(A) Except as provided in [paragraphs \(a\)\(1\)](#), [\(e\)\(2\)\(iii\)](#) and [\(e\)\(2\)\(vi\)](#) of this section, the household's monthly allotment shall be equal to the maximum SNAP allotment for the household's size reduced by 30 percent of the household's net monthly income as calculated in [paragraph \(e\)\(1\)](#) of this section. If 30 percent of the household's net income ends in cents, the State agency shall round in one of the following ways:

(1) The State agency shall round the 30 percent of net income up to the nearest higher dollar; or

(2) The State agency shall not round the 30 percent of net income at all. Instead, after subtracting the 30 percent of net income from the appropriate Thrifty Food Plan, the State agency shall round the allotment down to the nearest lower dollar.

(B) If the calculation of benefits in accordance with [paragraph \(e\)\(2\)\(ii\)\(A\)](#) of this section for an initial month would yield an allotment of less than \$10 for the household, no benefits shall be issued to the household for the initial month.

(C) Except during an initial month, all eligible one-person and two-person households shall receive minimum monthly allotments equal to the minimum benefit. The minimum benefit is 8 percent of the maximum allotment for a household of one, rounded to the nearest whole dollar.

(iii) For an eligible household with three or more members which is entitled to no benefits (except because of the proration requirements of paragraph (a)(1) and the provision precluding issuances of less than \$10 in an initial month of paragraph (e)(2)(ii)(B)) of this section:

(A) The State agency shall deny the household's application on the grounds that its net income exceeds the level at which benefits are issued; or

(B) The State agency shall certify the household but suspend its participation, subject to the following conditions:

(1) The State agency shall inform the suspended household, in writing, of its suspended status, and of its rights and responsibilities while it is in that status.

- (2) The State agency shall set the household's change reporting requirements and the manner in which those changes will be reported and processed.
- (3) The State agency shall specify which changes shall entitle the household to have its status converted from suspension to issuance, and which changes shall require the household to reapply for participation.
- (4) The household shall retain the right to submit a new application while it is suspended.
- (5) The State agency shall convert a household from suspension to issuance status, without requiring an additional certification interview, and issue its initial allotment, within ten days of the date the household reports the change.
- (6) The State agency shall prorate the household's benefits, in the first month after the suspension period, from the date the household reports a change, in accordance with [paragraph \(a\)\(1\)](#) of this section.
- (7) The State agency may delay the work registration of the household's members until the household is determined to be entitled to benefits.
- (iv) For those eligible households which are entitled to no benefits in their initial month of application, in accordance with [paragraph \(a\)\(1\)](#) or [\(e\)\(2\)\(ii\)\(B\)](#) of this section, but are entitled to benefits in subsequent months, the State agency shall certify the households beginning with the month of application.
- (v) When a household's circumstances change and it becomes entitled to a different income eligibility standard, the State agency shall apply the different standard at the next recertification or whenever the State agency changes the household's eligibility, benefit level or certification period, whichever occurs first.
- (vi) During a month when a reduction, suspension or cancellation of allotments has been ordered pursuant to the provisions of [§ 271.7](#), eligible households shall have their benefits calculated as follows:
- (A) If a benefit reduction is ordered, State agencies shall reduce the maximum SNAP allotment amounts for each household size by the percentage ordered in the Department's notice on benefit reductions. State agencies shall multiply the maximum SNAP allotment amounts by the percentage specified in the FNS notice; if the result ends in 1 through 99 cents, round the result up to the nearest higher dollar; and subtract the result from the normal maximum SNAP allotment amount. In calculating benefit levels for eligible households, State agencies would follow the procedures detailed in [paragraph \(e\)\(2\)\(ii\)](#) of this section and substitute the reduced maximum SNAP allotment amounts for the normal maximum SNAP allotment amounts.

(B) Except as provided in [paragraphs \(a\)\(1\), \(e\)\(2\)\(ii\)\(B\), and \(e\)\(2\)\(vi\)\(C\)](#) of this section, one- and two-person households shall be provided with at least the minimum benefit.

(C) In the event that the national reduction in benefits is 90 percent or more of the benefits projected to be issued for the affected month, the provision for a minimum benefit for households with one or two members only may be disregarded and all households may have their benefits lowered by reducing maximum SNAP allotment amounts by the percentage specified by the Department. The benefit reduction notice issued by the Department to effectuate a benefit reduction will specify whether minimum benefits for households with one or two members only are to be provided to households.

(D) If the action in effect is a suspension or cancellation, eligible households shall have their allotment levels calculated according to the procedures in [paragraph \(e\)\(2\)\(ii\)](#) of this section. However, the allotments shall not be issued for the month the suspension or cancellation is in effect. The provision for the minimum benefit for households with one or two members only shall be disregarded and all households shall have their benefits suspended or cancelled for the designated month.

(E) In the event of a suspension or cancellation, or a reduction exceeding 90 percent of the affected month's projected issuance, all households, including one and two-person households, shall have their benefits suspended, cancelled or reduced by the percentage specified by FNS.

DISCUSSION

The Appellant requested this fair hearing as an appeal to the Respondent's decision to terminate his household's monthly SNAP benefit allotment. Additionally, the Respondent contests the Respondent's inclusion of foster care payments in calculation of his SNAP benefit allotment. The Respondent must prove by a preponderance of the evidence that it correctly included foster care income resulting in a termination of SNAP benefits.

The Appellant is a certified resource foster parent through [REDACTED]. The Appellant has two foster children in his care and receives a monthly per diem payment from the agency. The Appellant is provided the reimbursement in the following month in which care is provided. In November 2025, the Respondent became aware of the foster care payments paid to the Appellant in the monthly amount of \$2200.00. The foster care payments were not reported at application and the Respondent requested verification of the payments by November 16, 2025. (Exhibit D-3) Additionally, the Respondent discovered through a data exchange wage match that the Appellant was employed as a [REDACTED]. On November 7, 2025, the Respondent requested that the Appellant provide verification of his employment income with [REDACTED] specifically, requesting the last thirty days of income for pay dates of "10/28/25, 11/4/25, 11/21/25, and 11/25 [sic]." On November 7, 2025, the Appellant provided a bank

statement documenting his net pay from [REDACTED] in the amount of \$398.13 for three pay dates in October 2025, but failed to provide verification of his gross payment amounts. On November 7, 2025, the Appellant provided documentation from [REDACTED] which outlines the per diem foster care reimbursement, but failed to establish an income amount. The Appellant failed to provide verification of his employment income by the established deadline date resulting in the termination of his monthly SNAP benefits effective December 31, 2025. (Exhibit D-5)

The Appellant contests the inclusion of the foster care payments in the calculation of his SNAP benefits contending they are considered a reimbursement for care provided in his home. Additionally, the Appellant contests the denial of his SNAP benefits because the verification checklist issued on November 7, 2025, requested pay verification for future dates and he could not provide them by the established deadline date of November 17, 2025, because the dates had not yet occurred. The Appellant purported that his income from [REDACTED] would be suspended because he is in between patients and would not begin receiving additional employment income until a new patient is secured.

Governing policy documents that foster care payments are considered unearned income if the assistance group chooses to include the children in the SNAP benefit. Because the foster children were included in the SNAP assistance group, the income received from foster care payments must be included in the calculation of SNAP benefits. Therefore, the Respondents decision to include this income in the SNAP calculation is correct.

Governing policy documents that when considering past income, income received in the thirty calendar days prior to the application date must be considered in determining SNAP calculations. Based on an evidentiary review, the Respondent required the Appellant to provide verification of his employment income by November 17, 2025, specifically requesting pay verifications for November 21, 2025 and one additional future date. The Respondent conceded that this request was in error. Because policy requires the last thirty days of income when considering past income for a monthly SNAP calculation, the Respondent erred in requesting future dates. Therefore, the Respondent's decision to terminate the Appellant's SNAP benefits based on his failure to provided income verifications cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Foster care payments are considered unearned income when the child is included in the SNAP assistance group.
- 2) The Appellant has two foster children in his SNAP assistance group; therefore, income received from foster care payments must be considered in the SNAP calculations.
- 3) The Respondent was correct in its decision to request and include foster care payment information in the calculation of SNAP benefits.
- 4) Policy requires that income be considered in the thirty calendar days prior to application or requested date.

- 5) The Respondent requested thirty days income verification on November 7, 2025; therefore, the thirty days income to be considered for a SNAP calculation would be from November 7, 2025 to October 9, 2025.
- 6) The Respondent requested income verification for future dates in November 2025.
- 7) The Respondent erred in requesting future income.
- 8) The Respondent's decision to terminate the Appellant's SNAP cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to REVERSE the decision of the Respondent to deny the Appellant's SNAP benefits. This matter is REMANDED to the Respondent for a correct calculation considering the correct thirty-day income amount.

ENTERED this _____ day of December 2025.

Eric L. Phillips
State Hearing Officer