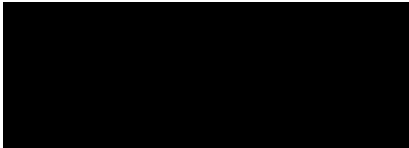




August 4, 2026



RE: [REDACTED] v. WV DOHS
ACTION NO.: 26-BOR-2269

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,

Amy Hayes
State Hearing Officer
Member, State Board of Review

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

cc: Michelle Robinson, Department Representative
Pamela Ratliff, Department Representative

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

[REDACTED]
Appellant,

v.

Action Number: 26-BOR-2269

**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 July 28, 2026, on an appeal filed on July 8, 2026.

The matter before the Hearing Officer arises from the June 25, 2026 decision by the Respondent that a minor child in the Appellant's care was not eligible for Summer Electronic Benefit Transfer benefits.

At the hearing, the Respondent appeared by Michelle Robinson, Department of Human Services. Appearing as a witness for the Respondent was Pamela Ratliff, Department of Human Services. The Appellant was self-represented. All witnesses were placed under oath, and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Notice from [REDACTED] County Department of Human Services regarding [REDACTED] dated June 1, 2026

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) A foster child, [REDACTED], was placed with the Appellant on April 2, 2026.
- 2) The child was in a previous foster care placement, with Guardian [REDACTED] in [REDACTED] County, WV, prior to her relocation with the Appellant. (Exhibit D-1)
- 3) On June 1, 2026, the [REDACTED] County office of the Department of Human Services notified Guardian [REDACTED] that [REDACTED] was eligible for Summer Electronic Benefit Transfer (Summer EBT) benefits, and they would be issued in the amount of \$120 for summer 2026. (Exhibit D-1)
- 4) The Respondent's representative testified that on or about June 2, 2026, Summer EBT benefits allocated for [REDACTED] were issued to Guardian [REDACTED] in [REDACTED] County.
- 5) The Appellant applied for Summer EBT benefits on behalf of [REDACTED] on June 8, 2026, in [REDACTED] County, WV. (Application submitted to the Board of Review and part of the Administrative record)
- 6) On June 25, 2026, the Respondent notified the Appellant that [REDACTED] was not eligible for Summer EBT benefits because the student was "already receiving this assistance." (Notice dated June 25, 2026, submitted to the Board of Review and part of the Administrative record)
- 7) On July 8, 2026, the Appellant requested a fair hearing because she believed that it was incorrect for Summer EBT benefits allocated for [REDACTED] to be issued to an individual who was no longer caring for [REDACTED]

APPLICABLE POLICY

Code of Federal Regulations Title 7 Section 292.2 Definitions defines categorically eligible as:

Categorically eligible means 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.

West Virginia Income Maintenance Manual Section 20.5 describes the Summer Electronic Benefit Transfer (Summer EBT or SEBT) program, in pertinent part:

20.5.5 Eligibility Requirements

The student is eligible for the entire benefit based on being eligible for any amount of time during the school year. The student must be a resident of West Virginia at the time of benefit issuance. There are two different pathways that can make a student eligible for Summer EBT participation. The student meets a pathway if they:

- Are determined income eligible through an application process for Summer EBT; or
- Are streamlined certified based on categorical eligibility.

20.5.5.B Streamlined Certification (Summer EBT categorical eligibility)

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 in MAGI categories at or below 185% FPL; 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.

20.5.6.C Denial Reasons

- The household is over the income threshold for their assistance group; or
- The student is not a resident of West Virginia; or
- The student does not attend a school that participates in the NSLP; or
- The student is already eligible for Summer EBT through Direct Certification; or
- The student has passed away.
- The student has already received the benefit for the program year.

20.5.7 Use Of Data To Determine Eligibility

- PATH – statewide eligibility system for SNAP, WV WORKS, Medicaid, and Foster care data
- WVEIS – statewide database for school enrollment information

The data sources above collect information that assist in determining eligibility for SEBT. All data sources are cross referenced to ensure that each qualified student only receives a single SEBT benefit.

20.5.7.C Deduplication

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.

20.5.8 Serving Vulnerable Populations

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 when reliable contact information exists. When reliable contact information does not exist, the Foster guardian will need to complete an application. All income for an economic unit containing an eligible Foster Student will be disregarded for SEBT, after the eligibility worker receives confirmation of Foster services through BSS. 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.

DISCUSSION

The Appellant is providing foster care to minor child, [REDACTED] was placed with the Appellant on April 2, 2026. On June 8, 2026, the Appellant applied for the Summer Electronic Benefit Transfer (Summer EBT) benefit on behalf of [REDACTED]. On June 25, 2026, the Appellant was notified by the Respondent that [REDACTED] was not eligible for the Summer EBT benefit because she was already receiving that assistance. The Appellant appeals the determination by the Respondent that Summer EBT benefits could not be issued to her on behalf of [REDACTED]. The Respondent bears the burden of proof and must show that it correctly denied Summer EBT benefits on behalf of [REDACTED].

The West Virginia Income Maintenance Manual (IMM) is the Respondent's written policy which describes how the Summer EBT program is administered. The IMM states that students who are receiving a Foster care payment are considered directly certified and categorically eligible for Summer EBT, and are approved for streamlined certification. Therefore, they are not required to complete an SEBT application. The evidence showed that [REDACTED] was receiving a foster care payment and was therefore considered categorically eligible and approved for a streamlined certification, which means that she should have received the Summer EBT benefit automatically.

The Respondent's representative testified that a Summer EBT benefit for [REDACTED] was issued on or about June 2, 2026, and that duplication of the benefit was prohibited. Pursuant to the IMM, all data sources are cross referenced to ensure that each qualified student only receives a single Summer EBT benefit. The Respondent argues that the system showed that the benefits for the child had already been issued to the prior Guardian [REDACTED] in [REDACTED] County on behalf of child [REDACTED]. However, the preponderance of the evidence did not show that [REDACTED] received the Summer EBT

benefit on June 2, 2026, because she was no longer in the care of Guardian [REDACTED] on June 2. Therefore, [REDACTED] did not receive her Summer EBT benefit.

The Summer EBT program is designed to supplement summer meals for students who are out of school and missing meals provided through the National School Lunch Program (NSLP). The Respondent's denial is invalid as Summer EBT benefits are approved for the student. The Respondent incorrectly issued the Summer EBT to a previous foster care parent and thus, [REDACTED] failed to receive her Summer EBT benefits. The Appellant credibly testified that [REDACTED] was placed in her home on April 2, 2026, so any benefit issued on behalf of [REDACTED] after that date should have been issued to the Appellant.

The IMM states that the Department of Human Services (DoHS) Social Services will inform Family Assistance/Office of EBT when a foster child has changed residency. It also states that DoHS will work to ensure the current guardian of a foster child receives the Summer EBT benefit on behalf of the student in the state's care. The preponderance of the evidence showed that DoHS did not ensure that the current guardian of [REDACTED] received the Summer EBT benefit. The preponderance of the evidence showed that the former guardian of [REDACTED] received the Summer EBT benefit in error.

Because [REDACTED] is categorically eligible to receive the Summer EBT benefit, but did not receive it due to the Respondent's error, she is entitled to receive the Summer EBT benefit from the Respondent. Therefore, the Respondent's decision to deny issuance of the Summer EBT benefit is incorrect.

CONCLUSIONS OF LAW

- 1) Foster children are categorically eligible to receive Summer EBT benefits and [REDACTED] is a foster child.
- 2) Policy states that the Department of Human Services will work to ensure the current guardian of a foster child receives the Summer EBT benefit on behalf of the student in state's care.
- 3) [REDACTED] was placed in the care of the Appellant on April 2, 2026, and any benefit issued on behalf of [REDACTED] should have been issued to the Appellant.
- 4) The Respondent incorrectly issued Summer EBT benefits on behalf of [REDACTED] to her former guardian, and [REDACTED] did not receive her Summer EBT benefit because she was no longer living with that guardian.
- 5) The Appellant's foster child [REDACTED] is eligible to receive an automatic issuance of Summer EBT benefits which must be issued to the guardian responsible for her care.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the action of the Respondent to deny the Appellant's request for Summer EBT benefits on behalf of [REDACTED]

ENTERED this 4th day of August 2026.

Amy Hayes
State Hearing Officer
Member, Board of Review