



April 30, 2024

[REDACTED]

RE: [REDACTED] v. WV DoHS/ BFA
ACTION NO.: 24-BOR-1672

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,

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

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

cc: Rachell Hruschak, [REDACTED] DoHS

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

████████████████████,

Appellant,

v.

Action Number: 24-BOR-1672

**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 April 10, 2024.

The matter before the Hearing Officer arises from the February 27, 2024 decision to reduce the amount of the Appellant's Supplemental Nutrition Assistance Program benefits.

At the hearing, the Respondent appeared by Rachell Hruschak, ██████████ Department of Human Services (DoHS). The Appellant appeared and represented herself. Both parties were placed under oath and the following exhibits were entered into the record:

Department's Exhibits:

- D-1 Verification Checklist, mailed February 14, 2024
- D-2 Notice, dated February 27, 2024
- D-3 Email Correspondence, dated March 4, 2024
- D-4 ██████████ ██████████ lease recertification, dated November 1, 2023
- D-4 West Virginia Income Maintenance Manual Chapter 4 and Chapter 7 excerpts

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) On February 27, 2024, the Respondent issued a notice advising the Appellant her monthly SNAP allotment would decrease from \$171 to \$95, effective on March 1, 2024, because she did not return all requested information, her shelter cost was less, and her income increased (Exhibit D-2).
- 3) On February 6, 2024, the Appellant reported an increase in her rent.
- 4) On February 14, 2024, the Respondent issued a verification checklist requesting verification of the Appellant's rent expense amount (Exhibit D-1).
- 5) Under *Important Information*, the checklist provided that the Appellant was responsible for submitting the information by the due date and instructed that if the Appellant did not comply, her benefits may be denied or terminated (Exhibit D-1).
- 6) Under *Important Information*, the checklist provided that if the information was not submitted by the due date and the Appellant's application was denied, the Appellant may still provide the information to the Respondent within 60 days of the date of her application and have her SNAP eligibility determined without submitting a new application (Exhibit D-1).
- 7) The checklist required the Appellant to submit "Rent/Lot-Rent/Lease/Proof of your obligation for this expense" by February 23, 2024 (Exhibit D-1).
- 8) On October 11, 2023, the Appellant signed a recertification of her lease agreement, effective November 1, 2023, that her rent would increase from \$211.00 to \$234 (Exhibit D-3).
- 9) On March 4, 2024, the Appellant submitted her lease agreement as proof of her shelter cost verification (Exhibit D-3).

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 4.4.2 *Income Disregards and Deductions* and § 4.4.2.A provides in relevant parts: Certain items may be allowed as income deductions to arrive at an Assistance Group's (AG) countable income When a client fails to report household expenses that would normally result in a deduction, the AG loses its entitlement to that deduction. They have a right to the expense once it is reported and verified.

WVIMM §§ 4.4.2.B.7 *Allowable Disregards and Deductions* and 4.4.2.C.1 *Shelter Expenses* provide in pertinent parts: Shelter/ Utility Deductions: After all other exclusions, disregards, and deductions have been applied, half of the remaining income is compared to the total monthly

shelter costs and the appropriate Shelter Utility Allowance (SUA) The deduction cannot exceed the shelter/utility cap found in Appendix B The AG is no longer allowed the deduction when the expense is no longer billed or is no longer due To receive a shelter deduction, the expense/obligation must be verified when the AG reports a change in shelter expense.

WVIMM § 10.4.2 *Reporting Requirements* provides in pertinent parts:

When reported information results in a change in benefits and additional or clarifying information is needed, the Worker must first request the information by using the DFA-6 or verification checklist. If the client does not provide the information within the time frame specified by the Worker, the appropriate action is taken after advance notice.

Code of Federal Regulations (CFR) § 273.9 *Income and Deductions* provides in the pertinent parts:

(d) Income Deductions shall be allowed only for the following household expenses:

...

(6) Shelter Costs-

(ii) Monthly shelter expenses in excess of 50 percent of the household's income after all other deductions in paragraphs (d)(1) through (d)(5) of this section have been allowed ... Only the following expenses are allowable shelter expenses:

(A) ... rent ...

WVIMM § 10.2.1 *General Sources of Information* provides in part:

The client must report changes related to eligibility and benefit amount at application and redetermination. All changes reported directly by an AG member must be acted on. When reported information results in a change in benefits and additional or clarifying information is needed, the Worker must first request the information by using the DFA-6 or verification checklist.

Code of Federal Regulations 7 CFR § 273.12(a)(4)(v) *Reduction or termination of benefits* and § 271.2 *Definitions* provides in relevant sections: When reducing or terminating benefits, the agency must send an adequate written notice that includes:

... a statement of the action the agency has taken or intends to take; the reason for the intended action; the household's right to request a fair hearing; the name of the person to contact for additional information; the availability of continued benefits; and the liability of the household for any over issuances received while awaiting a fair hearing if the hearing official's decision is adverse to the household ... In all cases, however, participants will be allowed ten days from the mailing date of the notice to contest the agency action and to have benefits restored to their previous level. If the 10-day period ends on a weekend or a holiday and a request is received the day after the weekend or holiday, the State agency shall consider the request to be timely.

Code of Federal Regulations 7 CFR § 273.13 *Notice of adverse action* provides in relevant sections:

- (a) *Use of notice.* Prior to any action to reduce or terminate a household's benefits within the certification period, the State agency shall, except as provided in paragraph (b) of this section, provide the household timely and adequate advance notice before the adverse action is taken.

WVIMM § 9.3.1.A *Adverse Actions Requiring Advance Notice* provides in relevant sections: For SNAP, Assistance Group (AG) closures require advance notice of adverse action.

WVIMM § 9.3.1.C *Beginning and Ending of the Advance Notice Period* provides in relevant sections: The 13-day advance notice period begins with the date shown on the notification letter. It ends after the 13th calendar day has elapsed. If the 13-day notice period ends on a weekend or holiday, the action is taken on the first subsequent workday.

WVIMM § 9.3.1.D *Date Adverse Action May Be Taken* provides in relevant sections:

Usually, the worker will take the action in the eligibility system before the 13-day advance notice begins, in order to be effective, the first day of the following month. If the 13-day advance notice period does not expire until the first day of the following month or later, the change is not effective until the month following the end of the 13-day advance notice period.

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

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 in relevant sections:

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 § 273.2(f) *Verification* provides in relevant sections:

Verification is the use of documentation or a contact with a third party to confirm the accuracy of statements or information. The State agency must give households at least 10 days to provide required verification

Code of Federal Regulations 7 CFR § 273.2(f)(4) *Sources of Verification* provide in relevant sections:

(iv) *Discrepancies*. Where unverified information from a source other than the household contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to a determination of eligibility or benefits. The state agency may, if it chooses, verify the information directly and contact the household only if such direct verification efforts are unsuccessful.

Code of Federal Regulations 7 CFR § 273.2(f)(6) *Documentation* provides in relevant parts:

Case files must be documented to support eligibility, ineligibility, and benefit level determinations. Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination.

DISCUSSION

The Appellant completed her SNAP eligibility interim contact form and reported a change in her rent costs. The Respondent did not apply a shelter deduction and reduced the Appellant's SNAP benefit allotment amount after the Appellant failed to submit the requested verification by the due date. The Appellant contested the Respondent's decision and argued that she did not comply because she untimely received the Respondent's February 14, 2024 request for verification.

The Board of Review cannot pass judgment on the policy and can only determine if the Respondent correctly applied the policy when reducing the Appellant's SNAP benefit allotment amount, effective March 1, 2024, because she failed to supply her rental expense verification by the required date. To prove that the Appellant's SNAP benefits were correctly reduced on March 1, 2024, the Respondent had to demonstrate by a preponderance of evidence that the Respondent correctly requested the Appellant's shelter cost verification and that the Appellant failed to comply by the due date.

The Appellant argued she has historically ("for years") had barriers to receiving the Respondent's mail timely from the postal service. Although the Appellant testified her mail issues were historic, no information was supplied to verify the Appellant had taken steps within her control to report or resolve the issue with the postal service or make alternative arrangements with the Respondent to have notices mailed to the Respondent's local office. The Board of Review lacks the authority to

grant relief in matters related to the postal service and can only determine whether the Respondent's notices were issued to the Appellant's address of record and contained the information required by the policy.

The preponderance of evidence revealed the Respondent properly issued the February 14, 2024 verification checklist to the Appellant and that the Appellant failed to submit verification by the due date. Because the Appellant failed to submit her verification by the due date, the Respondent was required to decide the Appellant's eligibility and monthly SNAP benefit allotment amount without the application of the change of shelter cost.

According to the policy, when a determination results in the reduction of the Appellant's monthly SNAP benefit allotment amount, the Respondent is required to issue an advanced notice of the proposed adverse action before reducing the Appellant's monthly SNAP benefit allotment amount. The Respondent's February 14, 2024 notice informed the Appellant that her benefits would be potentially adversely impacted if she failed to submit verification but did not specify a date that adverse action would occur. The evidence revealed that the Appellant received proper notice of the Respondent's request for shelter cost verification; however, the evidence revealed that the February 27, 2024 notice did not provide the Appellant with sufficient advanced notice before reducing her benefit allotment amount on March 1, 2024.

CONCLUSIONS OF LAW

- 1) An Assistance Group (AG) has a right to income deductions for shelter costs, including rent, once the cost is reported and verified.
- 2) The preponderance of evidence demonstrated that the Respondent mailed a request for shelter cost verification to the Appellant as required by the policy.
- 3) When the client does not provide the information by the due date, the appropriate action is taken after advanced notice.
- 4) The preponderance of evidence revealed that the Appellant did not submit her shelter verification until after the due date.
- 5) When reducing the amount of an AG's SNAP benefit allotment amount, the Respondent must issue a ten-day advanced notice advising the AG of the proposed reduction before the reduction is effective.
- 6) The preponderance of evidence revealed the Respondent's February 27, 2024 notice of proposed SNAP benefit allotment reduction, effective on March 1, 2024, failed to comply with the advanced notice requirements.
- 7) Because the Respondent incorrectly reduced the amount of the Appellant's monthly SNAP benefit allotment, effective March 1, 2024, without proper advanced notice, the Respondent must restore the Appellant's SNAP benefit allotment amount retroactively to the date of reduction.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to reduce the amount of the Appellant's SNAP benefit allotment amount, effective March 1, 2024. The matter is **REMANDED** for reinstatement of the Appellant's SNAP benefit allotment amount retroactively to the date of termination and for proper advanced notice of the proposed SNAP benefit allotment reduction before applying the reduction to the Appellant's SNAP benefits.

ENTERED this 30th day of April 2024.

Tara B. Thompson, MLS
State Hearing Officer