



June 12, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS  
ACTION NO.: 24-BOR-2192

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 Health and Human Resources. These same laws and regulations are used in all cases to ensure that all people 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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

cc: Jennifer Barker, DoHS

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

████████████████████,

**Appellant,**

v.

**Action Number: 24-BOR-2192**

**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 West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on June 5, 2024.

The matter before the Hearing Officer arises from the Respondent's denial of Supplemental Nutrition Assistance Program (SNAP) benefits as outlined in a notice dated May 3, 2024.

At the hearing, the Respondent appeared by Jennifer Barker, Economic Services Supervisor, WVDoHS. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Scheduled Telephone Interview Appointment dated December 29, 2023
- D-2 Notice of missed application interview dated January 8, 2024
- D-3 Notice of Decision dated May 3, 2024
- D-4 Case Comments from Respondent's computer system
- D-5 West Virginia Income Maintenance Manual Chapters 1.2.5 and 1.4.15

**Appellant's Exhibits:**

- A-1 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 submitted a Supplemental Nutrition Assistance Program (SNAP) application on November 28, 2023 (Exhibit D-4).
- 2) A Respondent worker received the SNAP application on December 28, 2023 (Exhibit D-4).
- 3) The SNAP application was incorrectly coded in the Respondent's computer system as a Medicaid review form and was not given prompt attention (Exhibit D-4).
- 4) The Respondent's worker attempted to contact the Appellant on December 28, 2023, to conduct a telephone interview for the SNAP application, but the Appellant did not answer and there was no option to leave a voice mail message on the Appellant's phone (Exhibit D-4).
- 5) The Respondent sent the Appellant a Notice of Scheduled Telephone Interview Appointment on December 29, 2023. The Notice indicates that a SNAP telephone application appointment was scheduled for January 5, 2024 (Exhibit D-1).
- 6) The Respondent's worker called the Appellant to conduct the telephone interview on January 5, 2024, but received no answer (Exhibit D-4).
- 7) The Respondent sent the Appellant a Notice on January 8, 2024, indicating that he did not complete his telephone interview and must reschedule the appointment (Exhibit D-2).
- 8) The Appellant did not reschedule the telephone interview.
- 9) No further action was taken on the pending application until May 2, 2024 (Exhibit D-4).
- 10) The Respondent sent the Appellant a Notice of Decision on May 3, 2024, informing him that his SNAP application was denied because he failed to complete the telephone interview (Exhibit D-3).
- 11) The Appellant submitted a Fair Hearing Request on May 10, 2024, to contest the denial of SNAP benefits.

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 1.2.5 states that an interview is required for SNAP applications; however, the interview may be completed via telephone. When it is not feasible for the applicant to be interviewed, if an interview is required or requested, on the date he expresses his interest, he must be allowed to complete the process at a later date. An appointment may be scheduled for his return, or the client may return at his convenience, depending on the procedure established by the Community Service Manager. If the household misses a scheduled interview appointment, it is the household's responsibility for rescheduling. To the extent applicable, the state agency must accommodate the client. Any special needs, such as the applicant's work schedule, must be accommodated.

Code of Federal Regulations 7 CFR 273.2(d) states:

### ***d) Household cooperation.***

(1) 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. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed not merely failing to appear for the interview. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied, and the agency shall provide assistance required by [paragraph \(c\)\(5\)](#) of this section. The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes and applications for recertification. 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. The State agency shall not consider individuals identified as nonhousehold members under [§ 273.1\(b\)\(2\)](#) as individuals outside the household.

## **DISCUSSION**

Policy states that if a household misses a scheduled SNAP application appointment, it is the household's responsibility for rescheduling. To the extent applicable, the state agency must accommodate the client. Any special needs, such as the applicant's work schedule, must be accommodated. If the household refuses to cooperate, the application shall be denied. 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 Respondent's worker attempted to contact the Appellant twice to complete a telephone application for SNAP benefits. The first contact was impromptu and the Appellant received no prior notification of a telephone interview. The second attempt was made after the Respondent's worker notified the Appellant in writing of a scheduled application appointment. The Appellant failed to attend the scheduled appointment and was notified in a January 8, 2024, letter that he must reschedule the telephone interview. The Appellant never rescheduled the application interview. During the hearing, the Appellant contended that he did not receive the appointment letter until after the appointment date and that he attempted to contact the Department but received no reply. The Appellant stated that he works in a sawmill from 5:30 a.m. until 2:30 p.m. daily and he does not hear his telephone while at work.

The Respondent erred by failing to take prompt action on the Appellant's application and by failing to deny the application in its computer system until May 2024. However, the Appellant was ultimately responsible for rescheduling the telephone interview. While the Appellant testified that he attempted to contact the Respondent, there was no information to verify that attempts were made. As the Appellant did not reschedule the application interview for a time that suited his work schedule, the Respondent's decision to deny the SNAP application is affirmed.

### **CONCLUSIONS OF LAW**

- 1) If a household misses a scheduled SNAP application appointment, it is the client's responsibility to reschedule the interview.
- 2) The Appellant was notified of his telephone application appointment in a notice dated December 29, 2023.
- 3) The Appellant failed to keep the appointment and was notified on January 8, 2024, that it was his responsibility to reschedule the appointment.
- 4) The Appellant failed to reschedule the appointment.
- 5) As no application interview was completed, the Respondent's action to deny the Appellant's SNAP application was correct.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to deny the Appellant's SNAP application.

**ENTERED this 12th day of June 2024.**

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**Pamela L. Hinzman  
State Hearing Officer**