



September 19, 2024



RE: [REDACTED] v. WVDohS
ACTION NO.: 24-BOR-2662

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 assure 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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Leslie Riddle, Department Representative

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

████████████████████,

Appellant,

v.

Action Number: 24-BOR-2662

**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 September 10, 2024, upon a timely appeal filed on July 11, 2024. Subsequent to the hearing, the case record was kept open until September 11, 2024, to allow the Appellant to submit evidence.

The matter before the Hearing Officer arises from the July 2, 2024 decision by the Respondent to establish the level of SNAP benefits.

At the hearing, the Respondent appeared by Leslie Riddle. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Interim Contact form, dated April 22, 2024
- D-2 Case comment entries dated December 7, 2023 through June 4, 2024 (excerpt)
- D-3 SNAP application form, date-stamped June 11, 2024
- D-4 Additional case comments, excerpted
- D-5 West Virginia Income Maintenance Manual, Chapter 1 (excerpts)

Appellant's Exhibits:

- A-1 Case summary
 Email dated May 14, 2024, with attachments
 Email dated June 11, 2024, with attachments
 Forwarded email dated July 31, 2024
 Forwarded emails dated August 12, 2024
 Forwarded emails dated September 10, 2024

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 Respondent mailed the Appellant a “6 or 12 month contact form,” dated April 22, 2024. (Exhibits A-1 and D-1)
- 3) This form advised the Appellant that “Your SNAP benefits must be reviewed this month. Please complete this form for the SNAP benefit review.” (Exhibits A-1 and D-1)
- 4) The form explained that the Appellant may submit their SNAP form by mail, providing instructions which read, “Complete this form and mail it to the local DHHR office listed above by 05/01/24...Each section informs you if you are required to provide proof. If you do not complete this contact form by the date shown above with required proof, your benefits may be stopped...” (Exhibits A-1 and D-1)
- 5) The Appellant did not submit the SNAP 6 or 12 month contact form, with required documentation, by the set deadline of May 1, 2024. (Exhibits A-1 and D-1)
- 6) The form, at section 4 (household earned income), lists the amount of earned income used in the Appellant’s SNAP budget and asks for a ‘yes’ or ‘no’ response to the question: “Has your household’s gross earned income (including earnings from self-employment) increased or decreased by more than \$125 from the amount above?” (Exhibits A-1 and D-1)
- 7) The Appellant did not answer this question in a yes or no response. (Exhibits A-1 and D-1)
- 8) The form requires “current proof of earnings your household received for the past 30 days,” in response to an affirmative response to the previous question. (Exhibits A-1 and D-1)

- 9) On December 7, 2023, the Appellant reported that "...her son got fired from [REDACTED] [sic] 12/2/23." (Exhibit D-2)
- 10) On June 5, 2024, the Respondent worker noted that the Appellant reported that "...her and [Appellant's son] both work and have been working... [Appellant's son's] employment screen was ended in 12/23...Client provided no pays." (Exhibit D-2)
- 11) On the SNAP contact form (Exhibits A-1 and D-1), the Appellant responded in the affirmative to the question, "Has anyone had a change in earnings (including earnings from self-employment) because they changed, started or stopped a job," triggering a requirement to complete a chart within the review form. (Exhibits A-1 and D-1)
- 12) The Appellant did not return the form (Exhibits A-1 and D-1) with income verification, or the chart completed for reporting purposes.
- 13) The Respondent terminated the Appellant's SNAP benefits, effective May 31, 2024. (Exhibit D-2)
- 14) The Appellant submitted a SNAP application form on June 11, 2024. (Exhibits D-3 and A-1)
- 15) This document (Exhibits D-3 and A-1) does not include income verification.
- 16) The Appellant was approved for prorated SNAP benefits upon the receipt of the required income verification with the Appellant's SNAP application.

APPLICABLE POLICY

West Virginia Income Maintenance Manual, § 1.2.2.B, documents:

Periodic reviews of total eligibility for recipients are mandated by federal law. These are redeterminations and take place at specific intervals, depending on the program or Medicaid coverage group. Failure by the client to complete a redetermination will result in termination of benefits. If the client completes the redetermination process by the specified program deadline(s) and remains eligible, benefits must be uninterrupted and received at approximately the same time.

The redetermination process involves basically the same activities described in Application Process above. Eligibility system changes and client notification of any changes resulting from the redetermination conclude the process.

West Virginia Income Maintenance Manual, § 1.2.4, addresses the client's responsibility in the application process and notes:

The client's responsibility is to provide complete and accurate information about his circumstances so that the Worker is able to make a correct determination about his eligibility.

West Virginia Income Maintenance Manual, § 1.2.10.A, addresses SNAP reapplications and notes (emphasis added):

When an application has been made and requested information is not received, according to the time limits established in Section 1.4, the client must not be made to complete a new application if the information is returned within 60 days of the original application date. **However, if the application was denied due to income** or any other circumstances other than requested verification, the applicant must reapply.

West Virginia Income Maintenance Manual, § 10.4.2.D, addresses Interim Contact Reports, or PRC-2 forms, and reads (emphasis added):

All SNAP AGs certified for 12 or 24 months must have a report completed in the mid-month of eligibility (the sixth month for 12-month certification periods, the twelfth month for 24-month certification periods).

SNAP must not continue into the 7th/13th month of certification if a complete Interim Contact Report (PRC-2) is not submitted. **If the PRC-2 is returned late in the 7th/13th month, the AG must reapply for SNAP.**

If the PRC-2 is returned late in the 7th/13th month, the worker will NOT update the eligibility system with any information provided on the PRC-2.

The Interim Contact Report (PRC-2) differs from a full scale redetermination as follows:

- All sections of the Interim Contact Report (PRC-2) must be completed, and the form signed by the AG.
- The PRC-2 cannot be processed if received in the 7th month (for cases certified twelve months) or the 13th month (for cases certified for 24 months). The client **MUST** reapply.
- The contact report may be completed by mail.
- No interview is conducted unless the client requests one.

Verification of reported changes must be submitted for the report to be considered complete. If a change is reported that requires verification, it must be requested using a DFA-6. Failure to provide requested verification results in AG closure or loss of a deduction after advance notice.

The eligibility system automatically mails an Interim Contact Report form (PRC-2) to the AGs for the mid-month of eligibility. **Failure to return the completed PRC-2 results in case closure.** Changes reported on the PRC-2 are treated as changes reported during the certification period, not as changes reported during the completion of a redetermination. An application form cannot be used in substitution of an Interim Contact Report form (PRC-2) during the report month.

The SNAP AG is eligible to receive a deduction for some household expenses at any point during the certification period as long as the AG reported the expense information to the agency. If the AG fails to report an expense, they may receive less SNAP than they are eligible for. Once the AG reports and verifies the expense, they are eligible for an increase in SNAP the beginning of the following month.

When a SNAP AG is closed for failure to complete the Interim Contact Report (PRC-2), a new application is not required when the form is returned by:

- The last day of the 12th month for households certified for 24 months
- The last day of the 6th month for households certified for 12 months

If the PRC-2 is not returned, a new application for SNAP must be completed. The PRC-2 can be processed if received by the last day of the 6th /12th month, but if no verification is included the AG MUST be given 10 days to return requested verification.

Proration in the 7th/13th month:

- **If the AG reports changes that are needed to determine eligibility and verification is requested on the DFA-6, prorate the benefit from the date the information is returned to the agency.** If verification is returned after the last day of the 7th/13th month, SNAP remains closed, and the AG must reapply.
- If the AG reports only expense changes, the benefit will not be prorated. A full month's benefit will be received for the 7th/13th month. The date of the benefit is the date the PRC-2 was initially received by the agency, which will be in the 6th/12th month. When verification of the expense is received prior to confirmation in the eligibility system, the deduction will be allowed. If the expense is NOT verified, the PRC-2 is processed without the deduction. If verification of an expense is received after confirmation in the eligibility system, the verified expense is considered a reported change. Increases/decreases to SNAP based on a reported change are effective the month following the change report.

West Virginia Income Maintenance Manual, § 1.4.14.B.2, outlines the worker requirements and conditions necessary to shorten a certification period, and reads in pertinent part (emphasis added):

Once a 24-month certification period is established, the Worker must shorten it in the following situations **and advance notice must be given.**

- The AG has an onset of non-excluded earned income;
- The AG is joined by an individual with non-excluded earned income;
- The AG is joined by an adult who is not elderly or disabled.

When the AG no longer qualifies for a 24-month certification period, the Worker must complete a redetermination when the advance notice period ends and assign a new certification period based on the AG's current circumstances.

AGs certified for 12 months may not have their certification period shortened for any reason except ineligibility.

The Code of Federal Regulations, 7 CFR §273.12(a)(5)(iii)(B) provides,

Submission of periodic reports by non-exempt households. Households that are certified for longer than 6 months, except those households described in § 273.12(a)(5)(iii)(A), must file a periodic report between 4 months and 6 months, as required by the State agency. Households in which all adult members are elderly or have a disability with no earned income and are certified for periods lasting between 13 months and 24 months must file a periodic report once a year. In selecting a due date for the periodic report, the State agency must provide itself sufficient time to process reports so that households that have reported changes that will reduce or terminate benefits will receive adequate notice of action on the report in the first month of the new reporting period.

The Code of Federal Regulations, 7 CFR §273.12(a)(5)(iii)(E) provides,

If a household fails to file a complete report by the specified filing date, the State agency shall provide the household with a reminder notice advising the household that it has 10 days from the date the State agency mails the notice to file a complete report. If an eligible household files a complete periodic report during this 10 day period, the State agency shall provide it with an opportunity to participate no later than ten days after its normal issuance date. If the household does not respond to the reminder notice, the household's participation shall be terminated and the State agency must send an adequate notice of termination described in paragraph (a)(5)(iii)(C) of this section.

The Code of Federal Regulations, 7 CFR §273.10(a)(1)(ii) provides (emphasis added),

A household's benefit level for the initial months of certification shall be based on the day of the month it applies for benefits and **the household shall receive benefits from the date of application to the end of the month** unless the applicant household consists of residents of a public institution. For households which apply for SSI prior to their release from a public institution in accordance with [§ 273.11\(i\)](#), the benefit level for the initial month of certification shall be based on

the date of the month the household is released from the institution and the household shall receive benefits from the date of the household's release from the institution to the end of the month. As used in this section, the term "initial month" means the first month for which the household is certified for participation in SNAP following any period during which the household was not certified for participation, except for migrant and seasonal farmworker households. In the case of migrant and seasonal farmworker households, the term "initial month" means the first month for which the household is certified for participation in SNAP following any period of more than 1 month during which the household was not certified for participation. Recertification shall be processed in accordance with [§ 273.10\(a\)\(2\)](#). The State agency shall prorate a household's benefits according to one of the two following options:

(A) The State agency shall use a standard 30-day calendar or fiscal month. A household applying on the 31st of a month will be treated as though it applied on the 30th of the month.

(B) The State agency shall prorate benefits over the exact length of a particular calendar or fiscal month.

The Code of Federal Regulations, 7 CFR §273.2(f)(1)(i) provides (emphasis added),

(f) *Verification.* 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. Paragraph (i)(4) of this section contains verification procedures for expedited service cases.

(1) *Mandatory verification.* **State agencies shall verify the following information prior to certification** for households initially applying:

(i) *Gross nonexempt income.* **Gross nonexempt income shall be verified for all households prior to certification.** However, where all attempts to verify the income have been unsuccessful because the person or organization providing the income has failed to cooperate with the household and the State agency, and all other sources of verification are unavailable, the eligibility worker shall determine an amount to be used for certification purposes based on the best available information.

DISCUSSION

The Appellant requested a hearing to appeal the decision of the Respondent to establish the level of SNAP benefits, specifically, the decision to prorate SNAP benefits based on the timing of the receipt of SNAP application or review documents. The Respondent must show, by a preponderance of the evidence, that it correctly prorated the Appellant's SNAP benefits on this basis.

The Appellant is a SNAP recipient in a two-person household. The Appellant was required to

return a completed form by a set deadline to continue to receive SNAP benefits. The Respondent contended that the Appellant did not return this form as required and terminated the Appellant's SNAP benefits at the end of May 2024. The Respondent advised the Appellant to reapply for SNAP. When the Appellant did so, the Respondent ultimately approved the Appellant for SNAP benefits in June 2024. These benefits were prorated, and the Appellant argued that they should not be. The Appellant contended that she did return her form as required, the SNAP benefits should not have been closed, and that June 2024 benefits should not be prorated.

The Appellant was required to return a form (PRC-2) at the midpoint of her certification period. (Neither party provided clear evidence or testimony regarding the specifics of the Appellant's certification period.) This form (Exhibits A-1 and D-1) shows a deadline for submission as May 1, 2024. The parties disagreed over whether it was submitted on May 11 or May 29. Either date is past the set deadline. The form is additionally incomplete because the Appellant was reporting the re-onset of earnings for her adult son and failed to respond to a question regarding earnings, complete a chart detailing earnings, and provide pay documentation. The Respondent correctly closed the Appellant's SNAP benefits at the end of May 2024 for these reasons.

The Respondent's representative testified that it was discovered that the Appellant's case should have been required to complete a 'full' SNAP review and required a different form from the Appellant. The Respondent may have correctly discovered the Appellant's case had an incorrect certification period, but it is not able to shorten a certification period without showing that it can be shortened, and that adequate advance notice was given. There was nothing to support this at hearing; however, a new SNAP application was required and was submitted by the Appellant.

The Appellant provided a SNAP application on June 11, 2024. This application, like the PRC-2, was not complete because it lacked earned income verification. This application was not submitted on the first day of June. The Appellant's SNAP application could not be certified until the necessary earned income verification was provided. The Appellant did not present a complete SNAP application until after June 1, 2024, and the Respondent must therefore prorate the approved benefits for the month of June 2024.

Based on the reliable evidence and testimony offered at the hearing, the Respondent showed that it correctly prorated the Appellant's SNAP benefits in the month of June 2024.

CONCLUSIONS OF LAW

- 1) Because the Appellant failed to return a timely and complete PRC-2 form, the Respondent must terminate her SNAP benefits.
- 2) Because the Appellant's submission of a complete SNAP application subsequent to the Respondent's SNAP termination was not received on the first day of the month, the Respondent must prorate the SNAP benefits issued for that month.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to establish the level of the Appellant's SNAP benefits, specifically by prorating the Appellant's SNAP benefits from the date of the receipt of a completed SNAP application.

ENTERED this _____ day of September 2024.

**Todd Thornton
State Hearing Officer**