



December 11, 2024

[REDACTED]

RE: [REDACTED] v. WV DoHS/BFA
ACTION NO.: 24-BOR-3726

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,

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

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

cc: Monica Emery, Justin Thorne, Pamela Trickett – [REDACTED] DoHS

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

██████████,

Appellant,

v.

Action Number: 24-BOR-3726

**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 December 10, 2024.

The matter before the Hearing Officer arises from the Respondent's November 18, 2024 decision to terminate the Appellant's Supplemental Nutrition Assistance Program benefits.

At the hearing, the Respondent appeared by Monica Emery, ██████████ DoHS. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 DoHS Notice, dated November 18, 2024
Hearing Summary
- D-2 Pre-Hearing Conference/Fair Hearing Request Form
- D-3 DoHS Notice dated October 21, 2024
- D-4 DoHS 10 Day Notice of Not Returning the Interim Contact Form, dated November 6, 2024
- D-5 West Virginia Income Maintenance Manual (WVIMM) 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) In August 2024, the Appellant's mailing address changed from [REDACTED] to her current address of record at [REDACTED].
- 2) The Appellant did not notify the Respondent of her address change.
- 3) On October 21, 2024, the Respondent mailed a *SNAP 6 or 12 month contact form* to the Appellant at [REDACTED]. The notice advised the Appellant must complete and submit all pages of the form to the Respondent by November 1, 2024 (Exhibit D-3).
- 4) The October 21, 2023 notice advised the form could be submitted via mail, online, or in-person (Exhibit D-3).
- 5) The Appellant did not complete and submit the review form by November 1, 2024.
- 6) On November 6, 2024, the Respondent issued a *10 Day Notice of Not Returning the Interim Contact Form* to the Appellant at [REDACTED]. The notice advised the Appellant of her requirement to complete the Interim Contact Report (Exhibit D-4).
- 7) On November 18, 2024, the Respondent issued a notice to the Appellant at [REDACTED]. The notice advised the Appellant her Supplemental Nutrition Assistance Program benefits would end after November 2024 because she did not complete her periodic report form by the date required (Exhibit D-1).
- 8) On November 20, 2024, the Appellant provided the Respondent with her updated mailing address on the fair hearing request form. The Appellant provided her address as, [REDACTED] (Exhibit D-2).
- 9) The Appellant did not complete a SNAP Interim Contact Form or an eligibility interview.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 1.2.4 Client Responsibilities provides that clients have a responsibility to report information about their circumstances so that the worker can make a correct determination about their eligibility.

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

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:

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 § 273.12 *Reporting Requirements* provides:

(a) *Household Responsibility to report.*

(2) Certified households must report changes within 10 days of the date the change becomes known to the household, or at the State agency's option, the household must report changes within 10 days of the end of the month in which the change occurred ...

(4) The State agency may establish a system of quarterly reporting in lieu of the change reporting requirements specified under paragraph (a)(1) of this section. The following requirements are applicable to quarterly reporting systems:

(iii) *Failure to file a complete form by the specified filing date.* If a household fails to file a complete report by the specified filing date, the State agency will send a notice to the household advising it of the missing or incomplete report ... If the household does not respond to the notice, the household's participation shall be terminated. The State agency may combine the notice of missing or incomplete report with the adequate notice of termination described in paragraph (a)(4)(v) of this section.

(5) The State agency may establish a simplified reporting system in lieu of the change reporting requirements specified under paragraph (a)(1) of this section ...:

(iii) *Periodic Report*

(B) Submission of periodic reports by non-exempt households. Households that are certified for longer than 6 months ... must file a periodic report between 4 months and 6 months, as required by the State agency. ... 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

(E) 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 ...

DISCUSSION

The Respondent terminated the Appellant's SNAP benefit eligibility because she failed to complete an eligibility review. The Appellant argued that she did not complete her review because she did not receive notice that it was due. During the hearing, it was established that the Appellant had elected to receive copies of her notices by email. The Appellant testified that when she checked her PATH account before the hearing, the notifications for review were present. The Respondent's representative testified that emailed notices are issued automatically and that written copies are also mailed to the Appellant's address of record. At the time the notices were issued, the Appellant's address of record was [REDACTED].

The Board of Review is required to follow the controlling policies and regulations and cannot grant SNAP eligibility exceptions beyond the conditions stipulated within the federal regulations and agency policies. The Respondent bears the burden of proof and had to demonstrate by a preponderance of the evidence that the Appellant refused to cooperate with a SNAP eligibility review and interview.

Federal regulations stipulate that a refusal to cooperate in SNAP eligibility reviews results in a determination of SNAP ineligibility. The policy stipulates that for a refusal to be made, the household must be able to cooperate but clearly demonstrated that it would not take actions that it could take and that are required to complete the review process.

The Appellant had a responsibility to report information about her circumstances — including changes to her mailing address — so that the worker could make a correct determination about her eligibility. During the hearing, the Appellant testified that she changed her residence in August 2024 but did not notify the Respondent of her new address. The evidence revealed that the Appellant did not notify the Respondent of her new address until she submitted her hearing request form to the Respondent on November 20, 2024.

The Appellant was required to complete a SNAP eligibility review form and telephone interview. The Respondent issued a written notice to the Appellant's address of record advising of her responsibility to complete and return the SNAP review form by November 1, 2024. According to the regulations and the review form instructions, the Appellant was able to submit her review form in person, by mail, or online. The policy stipulates that if a household fails to file a complete report by the specified filing date, the agency must send a notice to the household advising of the missing review. Under the policy, if the household does not respond to the notice, the household's participation will be terminated.

The evidence revealed that the Respondent issued written notice to the Appellant's then-address of record advising her that she must complete her review. The evidence revealed the Respondent issued the required subsequent notice to the Appellant's then-address of record advising her of the failure to submit the review form. The submitted evidence revealed that the Respondent followed the policy when notifying the Appellant of her responsibility to complete her SNAP eligibility review.

The written notice advised the Appellant she could complete her review by mail, online, or in-person. Although the Appellant testified that she was able to access her PATH account, no evidence was submitted to establish that she completed her SNAP eligibility review.

Because the Appellant could have provided her correct mailing address to the Respondent at the time of the August 2024 move but elected not to submit the address change until November 20, 2024, and because the Appellant was able to access her PATH account but did not complete her review, the evidence established that the Appellant refused to cooperate with the review process as required.

CONCLUSIONS OF LAW

- 1) A household that refuses to cooperate in a SNAP eligibility review shall be determined ineligible.
- 2) For a 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.
- 3) The preponderance of evidence demonstrated that the Appellant failed to timely report her address change and complete her required eligibility review.
- 4) Because the Appellant did not complete a SNAP eligibility review and interview, the Respondent correctly terminated her SNAP benefit eligibility.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's SNAP benefits.

ENTERED this 11th day of December 2024.

Tara B. Thompson, MLS
State Hearing Officer