



February 27, 2025

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 25-BOR-1169

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 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,

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

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

cc: Carla Marsh, WVDoHS

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

██████████,

Appellant,

v.

Action Number: 25-BOR-1169

**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 February 19, 2025.

The matter before the Hearing Officer arises from the Respondent's termination of Supplemental Nutrition Assistance Program (SNAP) benefits as outlined in a notice dated January 17, 2025.

At the hearing, the Respondent appeared by Carla Marsh, Economic Service Worker Senior, WVDoHS. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, the Appellant's girlfriend. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Verification checklist dated January 10, 2025
- D-2 Notice of Decision dated January 27, 2025

Appellant's Exhibits:

- A-1 Partial copies of January 27, 2025, notices and postmark information
- A-2 Fair Hearing Request Form dated January 24, 2025, written statement attached to appeal, and Notice of Decision dated January 17, 2025
- A-3 SNAP review form dated December 16, 2024
- A-4 Code of Federal Regulations 7 Sections 273.11 and 273.10
- A-5 Code of Federal Regulations 7 Section 273.13

A-6 Copy of form IG-BR-40a regarding continuation of SNAP benefits. Office of Inspector General Common Chapters Manual Chapter 710.16, and Code of Federal Regulations 7 Section 273.15

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 is a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) On December 16, 2024, the Respondent sent the Appellant a SNAP eligibility review form, which included notification of a telephone interview scheduled for January 9, 2025 (Exhibit A-3).
- 3) The Appellant completed the telephone review and reported that [REDACTED] had moved into his household.
- 4) The Respondent sent the Appellant a Verification Checklist on January 10, 2025, requesting verification of rent expense, and proof of self-employment income and expenses (Exhibit D-1).
- 5) The Verification Checklist indicates that the requested documentation must be provided by January 19, 2025 (Exhibit D-1).
- 6) On January 17, 2025, the Respondent sent the Appellant a computer-generated Notice of Decision, informing him that SNAP benefits would be terminated after January 31, 2025 because he did not complete an eligibility review (Exhibit A-2).
- 7) The termination notice was sent automatically because the Appellant's SNAP case was pending for verification in the Respondent's computer system on January 17, 2025 (Exhibit A-2).
- 8) The Appellant provided the requested verification to the Respondent.
- 9) The Appellant submitted a Fair Hearing Request Form on January 24, 2025 (Exhibit A-2).
- 10) The Respondent sent the Appellant a Notice of Decision dated January 27, 2025, informing him that SNAP benefits were approved for his household effective February 1, 2025 (Exhibit D-2).
- 11) The Appellant originally withdrew his January 24, 2025, hearing request but reinstated the request via electronic mail transmission to the Board of Review on February 2, 2025.

- 12) The Appellant requested that his SNAP benefits be continued pending a hearing decision.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 1.2.2.B states:

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.

7 Code of Federal Regulations 273.14:

(a) General. No household may participate beyond the expiration of the certification period assigned in accordance with [§ 273.10\(f\)](#) without a determination of eligibility for a new period. The State agency must establish procedures for notifying households of expiration dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods. Households must apply for recertification and comply with interview and verification requirements.

(b)(4) Verification. Information provided by the household shall be verified in accordance with [§ 273.2\(f\)\(8\)\(i\)](#). The State agency shall provide the household a notice of required verification as provided in [§ 273.2\(c\)\(5\)](#) and notify the household of the date by which the verification requirements must be satisfied. The household must be allowed a minimum of 10 days to provide required verification information. Any household whose eligibility is not determined by the end of its current certification period due to the time period allowed for submitting any missing verification shall receive an opportunity to participate, if eligible, within 5 working days after the household submits the missing verification and benefits cannot be prorated.

West Virginia Income Maintenance Manual Chapter 9.3.1.B states:

The following adverse actions do not require advance notice; use the DFA-NL-B in these situations.

- When adverse action occurs as a result of a mass change initiated, such as:

- The annual updates of SNAP allotments or deductions;
 - The annual Retirement, Survivors, and Disability Insurance (RSDI)/SSI updates;
 - A change in the WV WORKS benefit levels; or
 - A change in the Medically Needy Income Levels (MNIL).
- When the client has signed a DFA-NL-5, Waiver of 13-Day Advance Notice, to waive his right to a 13-day advance notice. See Section 9.3.
 - For SNAP only: when the benefit is terminated or reduced as a result of a redetermination

7 Code of Federal Regulations 273.13(a)(3):

The State agency may notify a household that its benefits will be reduced or terminated, no later than the date the household receives, or would have received, its allotment, if the

- (i) The household reports the information which results in the reduction or termination.
- (ii) The reported information is in writing and signed by the household.
- (iii) The State agency can determine the household's allotment or ineligibility based solely on the information provided by the household as required in [paragraph \(a\)\(3\)\(ii\)](#) of this section.
- (iv) The household retains its right to a fair hearing as allowed in [§ 273.15](#).
- (v) The household retains its right to continued benefits if the fair hearing is requested within the time period set by the State agency in accordance with [§ 273.13\(a\)\(1\)](#).
- (vi) The State agency continues the household's previous benefit level, if required, within five working days of the household's request for a fair hearing.

7 Code of Federal Regulations 273.15(k):

(k) *Continuation of benefits.*

- (1) If a household requests a fair hearing within the period provided by the notice of adverse action, as set forth in [§ 273.13](#), and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the notice of adverse action, unless the household specifically waives continuation of benefits. The form for requesting a fair hearing shall contain space for the household to indicate whether or not continued benefits are requested. If the form does not positively indicate that the household has waived

continuation of benefits, the State agency shall assume that continuation of benefits is desired and the benefits shall be issued accordingly. If the State agency action is upheld by the hearing decision, a claim against the household shall be established for all overissuances, with one exception. In the case of an EBT adjustment, as defined in [§ 274.12\(f\)\(4\)\(ii\) of this chapter](#), once an adverse action is upheld, the State agency shall immediately debit the household's account for the total amount stated in its original notice. If there are no benefits or insufficient benefits remaining in the household's account at the time the State agency action is upheld, the State agency may only make the adjustment from the next month's benefits, regardless of whether this satisfies the full adjustment amount. If a hearing request is not made within the period provided by the notice of adverse action, benefits shall be reduced or terminated as provided in the notice. However, if the household establishes that its failure to make the request within the advance notice period was for good cause, the State agency shall reinstate the benefits to the prior basis. When benefits are reduced or terminated due to a mass change, participation on the prior basis shall be reinstated only if the issue being contested is that SNAP eligibility or benefits were improperly computed or that Federal law or regulation is being misapplied or misinterpreted by the State agency.

(2) Once continued or reinstated, the State agency must not reduce or terminate benefits prior to the receipt of the official hearing decision unless:

(i) The certification period expires. The household may reapply and may be determined eligible for a new certification period with a benefit amount as determined by the State agency;

(ii) The hearing official makes a preliminary determination, in writing and at the hearing, that the sole issue is one of Federal law or regulation and that the household's claim that the State agency improperly computed the benefits or misinterpreted or misapplied such law or regulation is invalid;

(iii) A change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending and the household fails to request a hearing after the subsequent notice of adverse action;

(iv) A mass change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending; or

(v) The household, or its representative, orally withdrew its request for a fair hearing and did not advise the State agency of its desire to reinstate the fair hearing within the time frame specified in [paragraph \(j\)\(2\)](#) of this section.

DISCUSSION

Policy states that periodic reviews of total eligibility for recipients are mandated by federal law. 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. Eligibility system changes and client notification of any changes resulting from the redetermination conclude the process. The agency is required to provide notice of verification required to process the review. If a household requests a fair hearing within the period provided by the notice of adverse action, and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the notice of adverse action, unless the household specifically waives continuation of benefits.

Carla Marsh, Economic Service Worker Senior with the Respondent, testified that the Appellant's SNAP benefits were pending in the Department's computer system on January 17, 2025, resulting in the automatic issuance of a termination notice. Ms. Marsh explained that the Appellant completed his SNAP interview on January 9, 2025; however, the Respondent required additional verification and sent the Appellant a Verification Checklist to request the documentation. The requested information was received and notification was sent to the Appellant in a letter dated January 27, 2025, to inform him of his approval for February 2025 SNAP benefits. It should be noted that the "Benefit Amount" section of the January 27, 2025, approval notice is blank; however, the amount is included on the Statement of Calculation Page.

The Appellant did not contest the amount of his SNAP benefits but contended that he did not receive the Verification Checklist sent by the Respondent, that the January 27, 2025, notice informing him of approval for SNAP benefits was not postmarked until February 3, 2025 (after the time of benefit issuance), and that he should have received continued benefits pending the outcome of the hearing decision. The Appellant's hearing request had originally been withdrawn, but he retracted the withdrawal on February 2, 2025. He pointed out that he did not receive his January 27, 2025, approval notice until the day after the retraction.

There is no indication that the Appellant's Verification Checklist letter was returned to the Respondent as undeliverable. The Appellant ultimately provided the information to the Respondent for processing, and case changes were reflected in the Notice of Decision dated January 27, 2025.

The Appellant contended that the January 27, 2025, approval notice was not mailed to him until February 3, 2025, and that he should have received the notification prior to receipt of his February SNAP benefits. The Respondent's worker testified that the January 27, 2025, approval letter was not mailed by the local office but was computer-generated and mailed from [REDACTED]. Therefore, the mailing delay was not attributable to the local office. Federal regulations state that the State agency **may** [emphasis added] notify a household that its benefits will be reduced or terminated no later than the date the household receives, or would have received, its allotment, if the household reports information which results in a reduction. Furthermore, adverse action does not require advance notice when the SNAP benefit is terminated or reduced as a result of a case redetermination.

Policy allows for the continuation of benefits when a hearing is requested timely and the certification period has not expired. As the Appellant's SNAP case was due for review and his certification period ended in January 2025, the Appellant was not entitled to continue SNAP benefits under policy.

CONCLUSIONS OF LAW

- 1) Policy states that failure to complete a case redetermination results in the termination of SNAP benefits.
- 2) The Appellant completed his redetermination interview; however, the Appellant sent a Verification Checklist and requested additional information, which was due on January 19, 2025.
- 3) The Respondent's computer system automatically closed the Appellant's SNAP case on January 17, 2025, because requested information had not yet been provided and the review was pending.
- 4) The Appellant provided the requested documentation and the Appellant reopened his SNAP case effective February 2025.
- 5) The Appellant properly notified the Appellant that his SNAP benefits were approved for February 2025.
- 6) The Appellant was not entitled to continued benefits because his SNAP certification period expired in January 2025.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to terminate SNAP benefits on January 17, 2025. The Respondent correctly reopened SNAP benefits effective February 2025 following the receipt of requested documentation and provided proper notification of approval.

ENTERED this 27th day of February 2025.

Pamela L. Hinzman
State Hearing Officer