



The Delaware Code (31 Del. C. §520) provides for judicial review of hearing decisions. In order to have a review of this decision in Court, a notice of appeal must be filed with the clerk (Prothonotary) of the Superior Court within 30 days of the date of the decision. An appeal may result in a reversal of the decision. Readers are directed to notify the DSS Hearing Office, P.O. Box 906, New Castle, DE 19720 of any formal errors in the text so that corrections can be made.

**DELAWARE DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES
ADMINISTRATIVE FAIR HEARING**

LOG NUMBER: 5-24-2021-002

DECISION DATE: May 24, 2021

State Agency Appearances:

Lynn Carter, Sr. Social Worker/Case Manager
Jasmine Hackett, Sr. Social Worker/Case Manager

I-Statement of the Issues

The Appellant opposes a decision by the Division of Social Services ("DSS") to close her food benefits effective February 28, 2021.

The Division of Social Services ("DSS") contends that it properly closed the food benefits based upon the Appellant's failure to provide verifications during the renewal process. The Appellant disagrees with the decision to close her food benefits.

II- Procedural History

On February 8, 2021, DSS issued to the Appellant a Notice to Close Your Food Benefits, informing her that her food benefits would close effective February 28, 2021. (Exhibit 4). On March 25, 2021, DSS received the Appellant's timely appeal of the action. (Exhibit 5).

On April 5, 2021, the Appellant was sent a Notice of Hearing Date and Time, informing her that a Fair Hearing would be held on April 19, 2021. The hearing was conducted on that date remotely via telephone. This is the decision resulting from that hearing.

III- Statement of Facts

On January 6, 2021, the Appellant submitted her TANF Renewal Form to DSS. (Exhibit 1). In response to the section entitled "Who lives in your household?", the Appellant wrote "Same." (Exhibit 1). In response to the section entitled "Has anyone moved in or out of your household?", the Appellant wrote "No." (Exhibit 1). On February 5, 2021, a DSS worker interviewed the Appellant over the telephone. (Exhibit 2). At that time, the Appellant stated her household consisted of herself plus her two (2) children. (Exhibit 2). The interviewer did not record whether the household receives any income from any source. (Exhibit 2). On February 8, 2021, DSS

issued to the Appellant a Notice to Close Your Food Benefits, informing her that her food benefits would close effective February 28, 2021. (Exhibit 4). The Notice stated that the Appellant's food benefit case was closing because she did not provide proof of employment or wages for her son by January 31, 2021. (Exhibit 4).

At the Fair Hearing, Ms. Hackett testified that she did not conduct the telephone interview with the Appellant on February 5, 2021. However, she testified that she followed up with a courtesy telephone call to inform the Appellant of what verifications she needed to complete the renewal process. She further testified that she never received any information that the Appellant's son no longer lived within the Appellant's household.

At the Fair Hearing, the Appellant testified that her son turned eighteen (18) years old in July 2020. Prior to his eighteenth birthday, she received a notice from DSS stating that her son was going to be removed from her TANF case. The Appellant assumed that her son was removed from her food benefit case as well. She further testified that DSS never requested verification of her son's employment or wages.

At the Fair Hearing, Ms. Carter testified that the Appellant's son was removed from the Appellant's TANF case in July 2020 because he turned eighteen (18) years old. However, he remained on the Appellant's food benefit case. She testified that DSS issued both a TANF Renewal Form and Food Benefit Renewal Form to the Appellant, but the Appellant only returned the TANF Renewal Form. Ms. Carter further testified that she was unsure whether DSS ever issued the Appellant a Form 105 – Request for Verification.

IV – Discussion and Analysis of Law

DSSM §9027 states the following regarding application processing:

DSS will provide timely, accurate, and fair service to applicants and recipients of the Food Stamp Program. DSS will not impose additional application or application processing requirements as a condition of eligibility.

The application process includes filing and completing an application form, being interviewed, and having certain information verified. Prompt action will be taken on all applications and food stamp benefits retroactive to the period of application will be provided to those households that have completed the application process and have been determined eligible. Expedited service will be available to households in immediate need.

DSSM §9028 states the following regarding filing an application:

Provide each household at the time of application for certification or recertification with a notice (Form 105) that informs the household of the verification requirements the household must meet as part of the application process. The notice must also inform the household of the Division's responsibility to assist the household in obtaining required verification provided the household is cooperating as specified in DSSM 9029.

DSSM §9091 states the following regarding recertification:

No household may participate beyond the expiration of the assigned certification period without a determination of eligibility for a new period. Households must apply for recertification and comply with the interview and verification requirements per DSSM 9030 and DSSM 9038.

DSSM §9091.4 states the following regarding verifications:

Information provided by the household shall be verified according to DSSM 9038. Inform households of what required verification must be provided and of the date by which the verifications must be returned. The household must be allowed at least ten (10) calendar days to provide required verification. Households whose eligibility is not determined by the end of the current certification period due to the time period allowed for returning verifications shall receive their benefits for the full month, if eligible, within five (5) working days after the household submits the missing verification and benefits cannot be prorated.

In reviewing the facts of this case, it is not clear that DSS correctly closed the Appellant's food benefits in accordance with DSSM §9091. DSSM §9091 states, in relevant part:

No household may participate beyond the expiration of the assigned certification period without a determination of eligibility for a new period. Households must apply for recertification and comply with the interview and verification requirements per DSSM 9030 and DSSM 9038.

At the Fair Hearing, the Appellant testified that her son turned eighteen (18) years old in July 2020. Prior to his eighteenth birthday, she received a notice from DSS stating that her son was going to be removed from her TANF case. The Appellant assumed that her son was removed from her food benefit case as well. Ms. Carter testified that this assumption was incorrect. In fact, the Appellant's son remained on the Appellant's food benefit case even after he turned eighteen (18) years old. Therefore, the Appellant would have needed to verify her son's income information prior to the food benefit recertification pursuant to DSSM §9091. However, DSSM §9028 states, in relevant part: "Provide each household at the time of application for certification or recertification with a notice (Form 105) that informs the household of the verification requirements the household must meet as part of the application process."

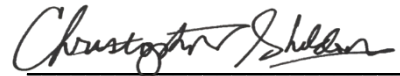
In this case, DSS was unable to confirm whether a Form 105 was ever issued to the Appellant. Instead, the Appellant only received a Notice to Close Your Food Benefits, which stated that the Appellant's food benefit case was closing because she did not provide proof of employment or wages for her son by January 31, 2021. Therefore, it is not clear the Appellant was ever instructed to furnish these particular verifications to DSS by the January 31, 2021 deadline pursuant to DSSM §9028. The interviewing DSS worker did not testify at the time of the hearing, and the Appellant disputed Ms. Hackett's assertion that she was informed, via telephone, of the need to submit these verifications. DSSM §9027 states, "DSS will provide

timely, accurate, and fair service to applicants and recipients of the Food Stamp Program.” Based on the entirety of the record, it is not clear that DSS provided “timely, accurate, and fair service” to the Appellant throughout the recertification process. While the Appellant was obligated to recertify pursuant to DSSM §9091, DSS was under an equally important obligation to facilitate that recertification. At the very least, DSS should have informed the Appellant of the need to provide verifications through a Form 105. Therefore, the decision to close the food benefits on February 28, 2021 must be reversed.

V- Decision

For these reasons, the Notice to Close Your Food Benefits dated February 8, 2021, which closed the Appellant’s food benefits effective February 28, 2021, is REVERSED. DSS is directed to reassess the Appellant’s eligibility for food benefits within ten (10) days of this decision.

Decision Date: **May 24, 2021**



Christopher Sheldon, Esq.
HEARING OFFICER

THE FOREGOING IS THE FINAL DECISION OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES

May 24, 2021
POSTED

SUMMARY OF DOCUMENTARY EVIDENCE

STATE'S EXHIBITS

EXHIBIT #1 – TANF Renewal Form date stamped January 6, 2021 (3 pages)

EXHIBIT #2 – DSS Interview Checklist dated February 5, 2021 (2 pages)

EXHIBIT #3 – Rent Verification date stamped February 8, 2021 (1 page)

EXHIBIT #4 – Notice to Close Your Food Benefits dated February 8, 2021 (2 pages)

EXHIBIT #5 – Appeal dated stamped March 25, 2021 (1 page)

APPELLANT'S EXHIBITS

None