



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: 5-25-2021-001

Decision Date: May 25, 2021

State Agency Appearances:

Denise Batson, Presenter for Delaware Department of Health and Social Services, Division of Social Services, **Appellee**;

Jasmine Hackett, Social Worker/Case Manager and Witness for Delaware Department of Health and Social Services, Division of Social Services, **Appellee**

I – Statement of the Issues

The Appellant opposes the decision by the Division of Social Services (“DSS”) to close her Food Benefits, also known as SNAP (Supplemental Nutrition Assistance Program) benefits.

The State asserts that the Appellant’s benefits were properly closed because she failed to complete her annual renewal requirements.

II – Procedural History

On January 20, 2021, DSS sent to the Appellant a Notice to Close Your Food Benefits. State’s Exhibit 2. The Appellant requested a Fair Hearing, which was date-stamped by the Fair Hearing Office on March 31, 2021. State’s Exhibit 3.

The Appellant was notified by Certified Mail dated April 8, 2021, that a Fair Hearing was scheduled for April 23. The notice advised that the hearing would be conducted by telephone conference. The telephone conference procedure was implemented due to the COVID-19 pandemic and the consequent State of Emergency in Delaware.

The Hearing was held in the manner set forth in the notice. This is the Hearing Officer’s decision.

III. Statement of Facts

The State asserts that the Appellant’s SNAP benefits were denied because she had failed to complete the renewal process.

Ms. Hackett stated that the Appellant was sent a Food Benefit Renewal Letter on December 11, 2021, which directed her to complete, sign and submit her renewal form by January 1, 2021, in order to continue her SNAP benefits uninterrupted. State’s Exhibit 1. When the Appellant failed to submit the

completed form, a Notice to Close was sent out on January 20, stating that benefits would close on January 31. As of the hearing date, Ms. Hackett testified, the Appellant's renewal form had still not been received by DSS for processing.

The Appellant stated that she had returned the completed renewal form, along with a paystub, to the Milford office of DSS. She also put in a call to the Milford office and left a message for Ms. Pritchett, who had previously worked on the Appellant's case. The Appellant stated that she retained a copy of the renewal form that she had signed and sent. Looking at the document, she testified that she had signed and dated it December 31, 2020. The Appellant was given the opportunity to submit the copy as an exhibit to the hearing by emailing it to the Hearing Officer. The Appellant was given until April 30, 2021 (5 business days) to submit any exhibits. To date, the Hearing Officer has not received any exhibits from Appellant.

When the Appellant received the notice of this hearing in the mail, she returned to the Fair Hearing Office an enclosed Acknowledgement Card, as well as a completed renewal form signed and dated 4/12/2021. State's Exhibit 4. Ms. Hackett stated that the 4/12/2021 renewal form had not been received by the processing office and asked that the Hearing Officer forward the document to her for processing. She advised the Appellant that she would need to provide two (2) bi-weekly paystubs (rather than a single paystub, as Appellant stated she had provided on December 31, 2020), as well as utility and shelter expense documentation.

IV – Discussion and Analysis of Law

The only authority of the hearing officer is to “apply the State rules except to the extent they are in conflict with applicable federal regulations.” *DSSM* § 5406.1(1). “[T]he decision of the hearing officer [must be] . . . free of legal error.” *Brooks v. Meconi*, 2004 Del. Super. Lexis 363, *3 (Del. Super. Ct. 2004). The factual findings of an administrative officer must be “supported by substantial evidence on the record as a whole.” *See* 31 *Del. C.* § 520. *Dean v. Delaware Dept. of Health and Soc. Serv.*, 2000 Del. Super. LEXIS 490, *aff'd* 781 A.2d 693 (Del. 2001). Substantial evidence is defined as “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Morales v. Apfel*, 225 F.3d 310, 316 (3d Cir. 2000) (quoting *Plummer v. Apfel*, 186 F.3d 422 (3d Cir. 1999)).

Participation in the Food Stamp Program is “limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet.” *DSSM* § 9054. The amount of SNAP Benefits is determined by calculating the applicant's net income, as set out in *DSSM* § 9065.

“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[.]” *DSSM* § 9091; see also *DSSM* § 9038. Verification of household income is mandatory. *DSSM* § 9032(1)(A); see also *DSSM* § 2013. “Use all income received in the previous thirty (30) days to determine the future income.” *DSSM* § 2014.3.

The State provided substantial evidence that it properly closed the Appellant's Food Benefits. The Appellant's certification period ended on January 31, 2021. The State sent out a renewal letter in December 2020, with a due date to return the renewal form by January 1, 2021. The Appellant acknowledged that she had not signed and mailed the renewal form until December 31, 2020. Therefore, there is no dispute that the renewal had not arrived until after the January 1, 2021, due date.

There was a dispute as to whether the renewal had been received in the Milford office and had possibly been mishandled, preventing it from getting to New Castle County. Ms. Batson stated the possibility that the renewal had been received in Milford but had not been forwarded to New Castle

County, based on the Appellant's testimony that she had mailed the document on December 31, 2021. The Appellant had been given the opportunity to submit as evidence a copy of the document signed December 31, that she said she had sent. However, she failed to submit the document to the Hearing Officer in the time allotted, or even anytime thereafter. Due to the failure to provide the documentary evidence that she said she had, the Hearing Officer finds the Appellant's testimony inconclusive as to the mailing of the document. Additionally, according to her testimony, she provided only a single bi-weekly paystub with her renewal. The necessary verification for renewal requires two (2) bi-weekly paystubs in order to show the last 30 days of income. Therefore, her verification of income was incomplete. The State, on the other hand, provided substantial evidence that the renewal form had not been received prior to the closure of benefits.

The foregoing constitutes substantial evidence that the State properly closed the Appellant's SNAP benefits when she failed to complete her recertification requirements of submitting a completed renewal form and verifying her income.

V – Decision

For the reasons stated above, DSS' closure of the Appellant's SNAP benefits is **AFFIRMED**.

Decision Date: **May 25, 2021**

/s/Mary Anne McLane Detweiler
MARY ANNE MCLANE DETWEILER
HEARING OFFICER

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

May 25, 2021
POSTED

cc: Appellant
Denise Batson, FH Team
Jasmine Hackett, DSS

SUMMARY OF DOCUMENTARY EVIDENCE

STATE'S EXHIBITS

Exhibit #1 (5 pages) Consists of Food Benefit Renewal Letter dated December 11, 2020

Exhibit #2 (2 pages) Consists of Notice to Close Your Food Benefits dated January 20, 2021

Exhibit #3 (1 page) Consists of request for Fair Hearing date-stamped March 31, 2021

Exhibit #4 (5 pages) Consists of Acknowledgement Card and completed renewal form, date-stamped April 19, 2021, by Fair Hearing Office

APPELLANT'S EXHIBITS

None