



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 :5-21-2021-002

DECISION DATE: May 20, 2021

State Agency Appearances:

Rotante Tunstall, Sr. Social Worker/Case Manager
Toni Evans, 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 March 31, 2021.

The Division of Social Services ("DSS") contends that it properly closed the food benefits based upon the Appellant's failure to complete her telephone interview. The Appellant disagrees with the decision to close her food benefits.

II- Procedural History

On March 19, 2021, DSS issued to the Appellant a Notice to Close Your Food Benefits, informing her that her food benefits would close effective March 31, 2021. (Exhibit 5). On March 26, 2021, DSS received the Appellant's timely appeal of the action. (Exhibit 1).

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 February 22, 2021, DSS received the Appellant's completed Food Benefit Renewal Form. (Exhibit 2). On March 22, 2021, DSS issued to the Appellant an Appointment and Request for

Verification Form, which instructed the Appellant to call the DSS office on March 31, 2021 at 9:00 a.m. for a telephone interview. (Exhibit 4). According to Ms. Evans, the Appellant did not call the DSS office at the scheduled timeslot, and, on March 19, 2021, DSS issued to the Appellant a Notice to Close Your Food Benefits, informing her that her food benefits would close effective March 31, 2021. (Exhibit 5).

At the Fair Hearing, the Appellant testified that she received a telephone voicemail message from Ms. Evans on March 30, 2021. She testified that she called back on March 31, 2021 at 10:00 a.m. and 11:00 a.m., but she was unable to reach Ms. Evans.

IV – Discussion and Analysis of Law

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 §9091.3 states the following regarding interviews:

A face-to-face recertification interview will be held with a member of each applying household or its authorized representative at least once every 12 months for households certified for 12 months or less. Face-to-face interviews can be waived per DSSM 9030. DSS will conduct a telephone interview or a home visit for households for whom the office interview is waived.

Schedule the Interview on or after the date the application was filed if the interview has not been previously scheduled, or the household has failed to appear for any interviews scheduled prior to this time and has requested another interview. Schedule the interview so that the household has at least ten (10) days after the interview in which to provide verification before the certification period expires. If a household misses a scheduled interview, send the household a notice of missed interview. If the household misses its scheduled interview and requests another interview, schedule a second interview.

Effective March 3, 2021, DSS Covid-19 Policy Brief #25 allowed interviews to take place telephonically, and this process was in effect through March 31, 2021.

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, 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 hearing, the Appellant testified that she received a telephone voicemail message from Ms. Evans on March 30, 2021. She testified that she called back on March 31, 2021 at 10:00 a.m. and 11:00 a.m., but she was unable to reach Ms. Evans. Since the interview was never completed, the Appellant did not comply with the interview requirement per DSSM §9091.3. While DSS Covid-19 Policy Brief #25 allowed for telephone interviews in lieu of face-to-face interviews, it did not dispense with the interview requirement entirely. Since the Appellant did not comply with the interview requirement necessary for continued eligibility, DSS correctly closed the food benefits in accordance with DSSM §9091. The evidence supports this conclusion.

V- Decision

For these reasons, the Notice to Close Your Food Benefits dated March 19, 2021, which closed the Appellant's food benefits effective March 31, 2021, is AFFIRMED.

Decision Date: May 20, 2021


Christopher Sheldon, Esq.
HEARING OFFICER

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

May 21, 2021
POSTED

SUMMARY OF DOCUMENTARY EVIDENCE

STATE'S EXHIBITS

EXHIBIT #1 – Appellant's Appeal date stamped March 26, 2021 (4 pages)

EXHIBIT #2 – Food Benefit Renewal Letter date stamped February 22, 2021 (4 pages)

EXHIBIT #3 – Household Expenses Letter date stamped February 22, 2021 (1 page)

EXHIBIT #4 – Appointment and Request for Verification Form dated March 22, 2021 (1 page)

EXHIBIT #5 – Notice to Close Your Food Benefits dated March 19, 2021 (2 pages)

APPELLANT'S EXHIBITS

None