



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: 5-24-2021-003**

**Decision Date: May 24, 2021**

#### **State Agency Appearances:**

Rotante Tunstall, Presenter for Delaware Department of Health and Social Services, Division of Social Services, **Appellee**;

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

#### **I – Statement of the Issues**

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

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

#### **II – Procedural History**

On March 19, 2021, DSS sent to the Appellant a Notice to Close Your Food Benefits. State’s Exhibit 3. The Appellant requested a Fair Hearing, which was date-stamped by the Fair Hearing Office on March 31, 2021. State’s Exhibit 1.

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 he had failed to complete the renewal process.

Ms. Meadows stated that the Appellant was sent a Food Benefit Renewal Letter on February 10, 2021, which directed him to complete, sign and submit his renewal form by March 1, 2021, in order to continue his SNAP benefits uninterrupted. State's Exhibit 2. When the Appellant failed to submit the completed form, a Notice to Close was sent out on March 19, stating that benefits would close on March 31. As of the hearing date, Ms. Meadows testified, the Appellant's renewal form had still not been received by DSS.

The Appellant acknowledges that he failed to return his renewal form on time because he hadn't been checking his mail. When he received the Notice of Hearing, dated April 8, 2021, he filled out the renewal form and mailed it to DSS at the Henry Building, he said. He asked what he needed to do, going forward, to get his SNAP benefits restarted. The State advised that he would need to follow up to see whether his renewal form had been received, and that he could do so by going to the DSS office in person. The Appellant was surprised that the office was open, as he believed it was not open due to the pandemic. He stated that he would go to DSS that very afternoon to follow up.

### **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.

The State provided substantial evidence that it properly closed the Appellant's Food Benefits. The Appellant's certification period ended on March 31, 2021. The State sent out a renewal letter in February, with a due date to return the renewal form by March 1. The Appellant acknowledged that he had not submitted his renewal until after April 8, well past the due date, as well as past the time when the Notice to Close was issued (March 19) and when the original certification period ended (March 31). Therefore, benefits were properly closed at the end of the certification period because the Appellant failed to submit apply for recertification by submitting his renewal form.

## **V – Decision**

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

Decision Date: **May 18, 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 24, 2021**  
**POSTED**

cc: Appellant  
Rotante Tunstall, FH Team  
Melissa Meadows, DSS

## **SUMMARY OF DOCUMENTARY EVIDENCE**

### **STATE'S EXHIBITS**

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

Exhibit #2 (5 pages) Consists of Food Benefit Renewal Letter dated February 10, 2021

Exhibit #3 (2 pages) Consists of Notice to Close Your Food Benefits dated March 19, 2021

### **APPELLANT'S EXHIBITS**

None