



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 :5-21-2021-003**

**DECISION DATE: May 20, 2021**

**State Agency Appearances:**

Monique Townsend, Sr. Social Worker/Case Manager  
Sade Bishop, Social Worker/Case Manager

**I-Statement of the Issues**

The Appellant opposes a decision by the Division of Social Services ("DSS") to close his food benefits effective January 31, 2021.

The Division of Social Services ("DSS") contends that it properly closed the food benefits based upon the Appellant's failure to submit his completed Renewal Form. The Appellant disagrees with the decision to close his food benefits.

**II- Procedural History**

On January 20, 2021, DSS issued to the Appellant a Notice to Close Your Food Benefits, informing him that his food benefits would close effective January 31, 2021. (Exhibit 4). On March 26, 2021, DSS received the Appellant's timely appeal of the action. (Exhibit 1).

On April 7, 2021, the Appellant was sent a Notice of Hearing Date and Time, informing him that a Fair Hearing would be held on April 22, 2021. The hearing was conducted on that date remotely via telephone. At the conclusion of the hearing, the record was held open until April 30, 2021 to allow the Appellant's representative an opportunity to submit her proposed exhibits. DSS was given until May 7, 2021 to object to any of the Appellant's representative's proposed exhibits. On April 26, 2021, the Appellant's representative submitted her fax transmittal history. DSS did not object, and the fax transmittal history was admitted into the record as Exhibit A-1. The record closed on May 7, 2021.

This is the decision resulting from the hearing.

### **III- Statement of Facts**

On December 11, 2020, DSS issued to the Appellant a Food Benefit Renewal Letter. (Exhibit 1). The Renewal Form needed to be returned by January 1, 2021 in order for the Appellant's food benefits to renew. (Exhibit 1). According to Ms. Bishop, DSS did not receive the Appellant's completed Renewal Form prior to March 26, 2021, which is when the Appellant's representative submitted the appeal. Thus, on January 20, 2021, DSS issued to the Appellant a Notice to Close Your Food Benefits, informing him that his food benefits would close effective January 31, 2021. (Exhibit 4).

At the hearing, the Appellant's representative testified that she faxed the completed Renewal Form to the DSS office on January 2, 2021 at 12:00 a.m. She further testified that she faxed the Renewal Form a second time when she submitted the appeal. (*see* Exhibit 1). After the hearing, the Appellant's representative submitted her fax transmittal history, which shows a successful fax was sent to DSS's Robscott office on January 1, 2021. (Exhibit A-1). It also shows another successful fax was sent to DSS's Robscott office on March 25, 2021. (Exhibit A-1).

### **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.

In reviewing the facts of this case, DSS did not correctly close the Appellant's food benefits in accordance with DSSM §9091. DSSM §9091 states, in relevant part:

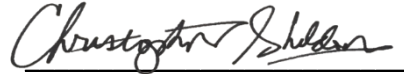
No household may participate beyond the expiration of the assigned certification period without a determination of eligibility for a new period. Households must apply for recertification and comply with the interview and verification requirements per DSSM 9030 and DSSM 9038.

At the hearing, the Appellant's representative testified that she faxed the completed Renewal Form to the DSS office on January 2, 2021 at 12:00 a.m. She further testified that she faxed the Renewal Form a second time when she submitted the appeal. After the hearing, the Appellant's representative submitted her fax transmittal history, which shows a successful fax was sent to DSS's Robscott office on January 1, 2021. It also shows another successful fax was sent to DSS's Robscott office on March 25, 2021. Admittedly, there is some ambiguity as to when exactly the fax was sent. Nevertheless, there is compelling evidence that the Appellant's representative did fax the Renewal Form to DSS on either January 1, 2021 or January 2, 2021. As a result, DSS should not have closed the Appellant's food benefits for failing to complete the recertification process. Therefore, the decision to close the food benefits effective January 31, 2021 must be reversed.

### **V- Decision**

For these reasons, the Notice to Close Your Food Benefits dated January 20, 2021, which closed the Appellant's food benefits effective January 31, 2021, is RESCINDED. This case is REMANDED to DSS to reevaluate the Appellant's eligibility for food benefits beginning February 1, 2021.

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 (5 pages)

EXHIBIT #2 – Social Security Administration Notice date stamped March 26, 2021 (1 page)

EXHIBIT #3 – Rent & Utility Expenses date stamped March 26, 2021 (2 pages)

EXHIBIT #4 – Notice to Close Your Food Benefits dated January 20, 2021 (2 pages)

### **APPELLANT’S EXHIBITS**

Exhibit A-1 – Fax Transmittal History (2 pages)