

STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
APPEALS OFFICE

██████████

V.

DOCKET No. 24-452

Department of Human Services

DECISION

INTRODUCTION

A telephonic hearing on the above-entitled matter came before an Appeals Officer on June 26, 2024, at 3:00 PM. The Appellant, ██████████, initiated this matter to appeal the Supplemental Nutrition Assistance Program (SNAP) replacement benefit request denial made by the Department of Human Services (DHS). The Appellant suffered a food loss which DHS denied replacement benefits for as the Request for Replacement of Food Purchased with SNAP Benefits (SNAP-55) form was not postmarked or received within ten (10) days of the loss. For the reasons discussed in more details below, the Appellant's appeal is granted.

JURISDICTION

The Executive Office of Health and Human Services (EOHHS) is authorized and designated by R.I.G.L. § 42-7.2-6.1 and EOHHS regulation 210-RICR-10-05-2 to be the entity responsible for appeals and hearings related to DHS programs. The administrative hearing was held in accordance with the Administrative Procedures Act, R.I.G.L. § 42-35.1 et. seq., and EOHHS regulation 210-RICR-10-05-2.

ISSUE

The issue before this Appeals Officer is whether the denial of the Appellant's SNAP benefit replacement request was done in compliance with federal and state policy.

STANDARD OF PROOF

It is well settled that in formal or informal adjudications modeled on the Federal Administrative Procedures Act, unless otherwise specified, a preponderance of the evidence is generally required to prevail. This means that for each element to be proven, the factfinder must believe that the facts asserted by the proponent are more probably true than false. 2 Richard J. Pierce, *Administrative Law Treaties* § 10.7 (2002) & see *Lyons v. Rhode Island Pub. Employees Council* 94, 559 A.2d 130, 134 (R.I. 1989). When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. *Narragansett Electric Co. vs. Carbone*, 898 A.2d 87 (R.I. 2006).

PARTIES AND EXHIBITS

Present were DHS Eligibility Technician Jeremy Ulbin and the Appellant. The following exhibits were presented as evidence:

- DHS Exhibits:
 - Notice of Denial – Individual Benefit Replacement issued to the Appellant.
 - SNAP-55 form completed by the Appellant.
- Appellant Exhibits:
 - Screenshot of phone calls between the Appellant and the DHS Call Center for December 12, 2023.

RELEVANT LAW/REGULATIONS

SNAP benefits can be replaced if food that was purchased with the benefits was lost in household misfortune or a disaster. In those cases, the loss needs to be reported to DHS within ten (10) days of the loss, either orally or in writing. DHS also needs verification for the loss before replacement benefits can be issued. This verification must be received within ten (10) days of when SNAP recipient *reported* the loss. 218-RICR-20-00-1.21 (A) & 7 C.F.R. § 274.6 (a).

OBJECTIONS AND MOTIONS

No objections or motions were made in this matter.

FINDINGS OF FACT

1. The Appellant lost food purchased with her SNAP benefits on December 6, 2023.
2. The Appellant called the DHS Call Center on December 12, 2023, at 8:30 AM. A 33 minute and 36 second outgoing call occurred. The Appellant testified that she informed DHS of her food loss during this phone call. DHS has no case note of this call being received.
3. The Appellant received a call from the DHS Call Center on December 12, 2023, at 9:24 AM. The Appellant testified that she was told DHS needed to mail out a form for her to complete and return. DHS was giving the Appellant ten (10) days to get the form completed and returned.
4. A completed SNAP-55 was received by DHS from the Appellant on December 21, 2023.
5. DHS denied the replacement request because the SNAP-55 was not received or postmarked within ten (10) days of the loss of food. December 21, 2023, was fifteen (15) days from the date of loss and nine (9) days from the phone call with the DHS Call Center.

DISCUSSION

Regulations

To have a successful request for replacement SNAP benefits due to a household misfortune or disaster, there needs to be two things, reporting the loss and verifying the loss.

State regulations, 218-RICR-20-00-1.21, require that the SNAP recipient report to DHS the loss of food within ten (10) days to be eligible to request replacement SNAP benefits. It does not specify what is required to report the food loss. DHS' argument that the SNAP-55 need to be submitted within ten (10) days of the loss would be valid if reporting equated to completing the SNAP-55. However, state regulations are silent on what constitutes reporting.

SNAP is overseen by the United States Department of Agriculture – Food and Nutrition Services who set out many of the rules and options for states related to SNAP. This means many of the state policies can be correlated to a federal regulation. The corresponding federal regulation can be found at 7 C.F.R. § 274.6 which provides clarification. Specifically, that regulation states that the household can timely report the loss orally or in writing. *This precludes the SNAP-55 as being the only method of initially reporting the loss to DHS.*

Initial Reporting

The Appellant testified that she called DHS on December 12, 2023, to report the loss of food. To back this up the Appellant provided a screenshot from her cell phone showing the calls made with the DHS Call Center on December 12. Specifically, the Appellant made a call at 8:30 AM that lasted over thirty (30) minutes. The Appellant testified that this call is when she reported the loss food. She also testified that she received a call later the same day from DHS advising her that DHS would need her to complete a form and turn it back in within ten (10) days. This is backed up by the Appellant's screenshot which also shows a six (6) minute call to the Appellant from the DHS Call Center at 9:24 AM the same day. While DHS testified that they do not have a case note that these calls occurred, the record of the call

to the Appellant that day speaks otherwise. The phone screenshot makes the Appellant's version of events more creditable. This tribunal finds that the Appellant reported the food loss, orally, on December 12, 2023. This was within the ten (10) days of the loss and timely reported to be eligible for replacement benefits.

Verification

Besides reporting the lost, the Appellant also needs to provide verification of the loss. Both state and federal regulations specify that the verification must be received within ten (10) days of reporting the lost. A completed SNAP-55 fulfills the verification requirement. In this case, the Appellant submitted a completed SNAP-55 within ten (10) days of when she reported the loss, via her phone call, to DHS but more than ten (10) days from the date of the loss. Given this tribunal's determination that the Appellant reported the loss within the required ten (10) days, she would have ten (10) days from the call on December 12, 2023, to provide the verification (i.e., the completed SNAP-55). The Appellant submitted the completed SNAP-55 within that timeframe and therefore the verification was submitted timely.

CONCLUSION OF LAW

After careful review of the testimony and evidence present at the administrative hearing, this Appeals Officer concludes:

1. SNAP regulations only require the Appellant to notify DHS of the loss of food within ten (10) days. Federal regulations permit this reporting to be orally.
2. Written verification of the loss is required but can be submitted within ten (10) days of reporting the lost to DHS.
3. The Appellant complied with federal and state SNAP regulations by calling DHS to notify them of the loss and following that by submitting a completed SNAP-55 within the required timeframes.

DECISION

Based on the foregoing findings of fact, conclusions of law, evidence, and testimony it is found that a final order be entered that there is not sufficient evidence to support the denial of replacement SNAP benefits by DHS. DHS to reprocess the Appellants SNAP-55 as being received timely within ten (10) calendar days of the certification of this decision.

APPEAL GRANTED

Shawn J. Masse

Shawn J. Masse - Appeals Officer

NOTICE OF APPELLANT RIGHTS

This final order constitutes a final order of the Department of Human Services pursuant to RI General Laws § 42-35-12. Pursuant to RI General Laws § 42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.

CERTIFICATION

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to [REDACTED]; copies were sent, via email, to

Jeremy Ulbin, DHS Representatives at DHS.Appeals@dhs.ri.gov, and the DHS Policy Unit at

DHS.PolicyQuestions@dhs.ri.gov on this 28th day of June, 2024.

Amelia McKeen