

**MASSACHUSETTS DEPARTMENT OF TRANSITIONAL ASSISTANCE
APPEAL DECISION**

APPEAL DECISION: Approved **AO:** Web Unit

APPEAL NO: 360395

CATEGORY: 09

SS NO: xxx-xx-

DECISION DATE: **JAN 23 2013**

NAME: _____
ADDRESS: _____
Boston, MA 02111

DATES: 12/11/12 01/02/13
Filing Hearing

DEPARTMENT REPRESENTATIVE(S):

Janice Repoza

JURISDICTION:

Notice dated 09/14/2012 was sent to the appellant denying her application for Food Stamp benefits. (Exhibit 4)

The appellant filed this appeal on 12/11/2012, and therefore it is timely (106 CMR 343.140(B)/367.100). (Exhibit 1)

The denial of assistance is grounds for appeal (106 CMR 343.230/367.025).

ACTION BY DEPARTMENT:

The Department denied the appellant's application for SNAP benefits.

ISSUE:

Whether the Department properly denied appellant's application for failure to provide requested verifications.

SUMMARY OF EVIDENCE:

A case manager from the DTA Web Unit represented the Department at the hearing. She testified that the Department denied appellant's application for SNAP benefits on September 14th due to appellant's failure to provide certain verifications. She further testified that the Department did not receive the verifications by 10/13/12 and that she

JAN 23 2013

checked again prior to the hearing to see if the verifications had been submitted but that they had not.

Appellant testified that she lives with her husband, mother, and two children. She further testified that her mother is disabled and that she provides full-time care to her in the home. She further testified that she applied for benefits with the help of a local food pantry and that a worker from the food pantry submitted the requested verifications to the Department with the exception of her husband and mother's RSDI information because that could be independently verified by the Department. The Department representative responded that she had been able to verify the RSDI information for appellant's husband but for unknown reasons could not do so for appellant's mother. Appellant also presented copies of all requested verifications at the hearing.

The Department representative mentioned at the hearing that it did not appear that appellant included verification of her daughter's student status. Appellant responded that the verification checklist sent by the Department did not request this information and that her daughter was not enrolled as a student at the time of the initial application

Appellant also asserted that she initially applied for benefits as a single household of 5. She testified that the Department never informed her that her mother was eligible to receive benefits separately because she is elderly and suffers from a severe, permanent disability. She further testified that she was unaware of this option and that she believed the Department has an affirmative obligation to inform her of this possibility. Finally, she testified that she subsequently reapplied for benefits through the Dudley Square DTA office and was approved to receive benefits for two separate households, one consisting of appellant, her husband, and two children and the other consisting of her mother.

Appellant submitted the following exhibits:

Exhibit 3 – Copy of appellant's driver's license and social security numbers for her husband, mother, and children.

Exhibit 4 – Four paystubs for appellant's son dated 8/17/12, 8/24/12, 8/31/12, and 9/7/12

Exhibit 5 – Four paystubs for appellant's daughter dated 8/17/12, 8/24/12, 8/31/12, and 9/7/12.

Exhibit 6 – Bill from Boston Water and Sewer Commission

Exhibit 7 – Mortgage statement

Exhibit 8 – Gas bill

Exhibit 9 – Electric bill

Exhibit 10 – Affidavit from a Food Stamps Associate at the American Red Cross Food Pantry stating that he submitted the requested verifications to the Department through the Massachusetts Secure File and Email Document System (SFED) between August 15th and October 3rd 2012.

Exhibit 11 – Statement of appellant.

Exhibit 12 – RSDI statement for appellant's mother.

Exhibit 13 – Tuition bill from Bunker Hill Community College for appellant's daughter

Exhibit 14 – Verification checklist sent by the Department on 9/04/2012

Exhibit 15 – Letter from DTA Hearings Director dated 1/21/1986 outlining the Department's interpretation of the de novo regulation

Exhibit 16 – Copies of three DTA appeals decisions applying the de novo regulation

Exhibit 17 – Legal Memorandum from the Massachusetts Law Reform Institute outlining appellant's legal claims.

FINDINGS OF FACT:

The record shows, and I so find by a preponderance of the evidence:

1. Appellant originally applied for SNAP benefits as a household of five with the help of a food pantry worker on August 15, 2012 through the Department's web application system. (Testimony, Exhibit 10).
2. On September 4, 2012, appellant completed an interview with the Department and the Department provided her with a verification checklist requesting proof of appellant's identity, address, earned income, and unearned income. (Testimony, Exhibit 14).
3. This verification checklist did not include a request for proof of appellant's daughter's college enrollment and appellant's daughter was not enrolled as a student at the time of the application. (Testimony, Exhibit 14).
4. At no time during or after this interview the Department inform appellant that her mother may have been eligible to receive benefits separately and that applying as two separate households would have resulted in greater total benefits. (Testimony).
5. On September 14th the Department denied appellant's application for failure to provide requested verifications and notified her that she would be retroactively eligible for benefits back to the date she applied if she provided the verifications by 10/13/12. (Exhibit 1).
6. On September 19th, appellant returned to the food pantry with the verification checklist and a worker there submitted a copy of appellant's driver's license, three pay stubs for appellant's son, and proof of residence as well as shelter and utility costs to the Department through SFED. (Testimony, Exhibit 10).
7. On October 3rd, appellant once again met with the food pantry worker and the worker submitted four pay stubs for appellant's daughter, one additional pay stub for appellant's son, a water/sewer bill from the City of Boston, and property insurance and real estate tax documents to the Department through SFED. (Exhibit 10).
8. For unknown reasons, the Department did not receive or take action based on the submitted verifications. (Testimony).
9. Appellant subsequently reapplied for benefits through the Dudley Square DTA office and was approved as two separate households, one consisting of appellant, her husband, and two children and the other consisting of appellant's mother. (Testimony).

JAN 23 2013

CONCLUSIONS OF LAW:

Appellant first asserts that the Department erroneously denied her original application for benefits. 106 C.M.R. 343.500 governs the admissibility evidence at administrative hearings. Specifically, 106 C.M.R. 343.500(A) specifies that the hearing officer "shall not exclude evidence at the hearing for the reason that it had not been previously submitted to the Department..." The regulation further provides that "[t]he effective date of any adjustments to the appellant's grant level or eligibility status shall be the date on which all eligibility conditions were met, regardless of when the supporting evidence was submitted." 106 C.M.R. 343.500(A). At the hearing, appellant provided copies of all of the verifications requested in the Department's verification checklist. Appellant also offered credible evidence that the verifications were in fact submitted to the Department in a timely manner, but the de novo evidence regulation itself clearly provides a sufficient basis to admit the verifications and grant the appellant benefits retroactive to the date of her initial application.

Appellant also asserts that her family should retroactively be entitled to benefits as two separate households rather than a single household of five because the Department had an obligation to inform her that her mother could receive benefits as separate household under 106 C.M.R. 361.200(B)(4). She argues that applicants for SNAP benefits are not in a position to know or fully understand the Department regulations relating to household composition while Department case managers receive extensive training and are in a better position to understand which facts may be relevant in determining an applicant's household composition or benefit level.


Chapter 361 of the Department's regulations governs the SNAP application process. 106 C.M.R. 361.050 states that the application process begins with a request for an application and ends with a decision on eligibility. It further lists some required Department actions as part of the application process including "assisting a household to complete its application" and "interviewing a member of the household or an authorized representative." 106 C.M.R. 361.050(B)-(C). Additionally, 106 C.M.R. 361.550 governs the content of interviews of SNAP applicants. It states that the scope of the interview may not "extend beyond an examination of household circumstances which directly related to the determination of household eligibility and benefit level." 106 C.M.R. 361.550. It further requires the case manager to "use interview techniques that explore and resolve with the household unclear and incomplete information" and "fully advise the household of its rights and responsibilities..."

Taken as a whole, I conclude that the Department's obligations to assist a household in completing its application, to interview a household member to examine the household's circumstances, and to advise the household of its rights and responsibilities under the SNAP program include an obligation to advise an applicant when a household member may be eligible to receive benefits as a separate household under 106 C.M.R. 361.200(B)(4). The interview process in particular is designed to ensure that the Department has complete and accurate information regarding a household's eligibility and that the household has a full understanding of its rights and responsibilities under the

program. Here, the appellant provided the Department with information that her mother was elderly and received disability benefits. This information should have alerted the Department that appellant's mother may have been eligible to be treated as a separate household under 106 C.M.R. 361.200(B)(4) and that appellant and her family might have been eligible for greater total benefits if her mother applied as a separate household. The interview process fails to serve its intended purpose where, as here, the Department fails to recognize relevant factual information and advise the applicant that her total benefits may be higher if she applies with a different household composition. Accordingly, the appeal is approved.

ACTION FOR DTA:

The Department should grant appellant SNAP benefits retroactively to the date of her initial application. The Department should calculate the benefits separately for one household consisting of appellant, her husband, and her children and a second household consisting of appellant's mother.



Jeremy Bohn
Hearing Officer

CC: Vicky Negus, Mass Law Reform Institute

360393-3

JAN 23 2013