

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS

STATE OF GEORGIA



M. R. [REDACTED],

| Docket No.: [REDACTED]

Petitioner,

| [REDACTED]-OSAH-DFCS-FSP-67-Brown

03/11/2022

v.

|

Kristan Moses, Legal Assistant

DHS, DIVISION OF FAMILY & CHILDREN SERVICES,

| Agency Reference No.: [REDACTED]

Respondent.

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FINAL DECISION

Petitioner filed a hearing request when Respondent closed her food stamp for failure to verify required information. Petitioner appeared pro se. Respondent’s representative was Ms. Sonia Willis-Bentley. The hearing was held on March 1, 2022, at the Public Safety Building in Duluth, Gwinnett County, Georgia.

Ms. Sheila A. Kennedy and Ms. Erika Oliver were present by subpoena to testify.

Official notice is hereby taken of the Economic Support Services Policy Manual, Food Stamp Program, Volume III. (Hereinafter, “Manual”)

Based on the following Findings of Fact and Conclusions of Law, the Respondent’s decision to close Petitioner’s food stamp case for failure to verify was proper and is **AFFIRMED**.

I. Findings of Fact

1. In June/July 2021, when Petitioner was asked to verify her household income, she provided information regarding her husband’s pension. Her husband, a Swedish citizen, receives a pension and the verification that was necessary was provided. The Petitioner’s food stamp case remained active. (Testimony of Respondent)
2. In January 2022, it was time for SNAP renewal of Petitioner’s case, and after the renewal application was filed, a Verification Checklist was sent to her, in the regular course of business. (Exhibit R-1)
3. The Verification Checklist sent to Petitioner was dated January 18, 2022 and indicated that the “items listed below must be received by due dates mentioned for each.” Further, without these items, DFCS would not be able to determine eligibility. (Exhibit R-1)
4. The Verification Checklist stated the following: Program: Food Stamps. Who? J. [REDACTED] E. [REDACTED]; What information is needed? Loss of Unearned Income; When due? 1/28/2022; and what is accepted as proof? Collateral Statement, Letter. (Exhibit R-1)
5. Continuing further, the Verification Checklist called for information from Petitioner, as follows:

Program: Food Stamps; Who? M [REDACTED] R [REDACTED], what information is needed? Unearned Income-Contribution-Gifts; What time period? All income received; When due? 1/28/2022; What is accepted as proof? Social Security Records, Workers Compensation Award Letter, Check Stubs, Letter. The additional information that was requested for Petitioner concerned doctor, hospital and prescription expenses, and that information was required to be provided by January 28, 2022, as well. (Exhibit R-1)

6. Importantly, there was a special highlighted box on the Verification Checklist that read as follows: "Special Notes: Please provide verification that J [REDACTED] E [REDACTED]'s pension has ended. Provide a written statement of how you are paying your rent, utilities, and medical expenses your insurance does not pay. If someone is helping with these expenses that statement must be written by them, state what they are paying for, the amount, if the money is given to you or the landlord/billing agency directly (must be signed, dated, and have a contact phone number listed). Fax #678-377-3705." (Exhibit R-1)
7. According to Respondent case manager, DFCS needed the verification of a pension Petitioner's spouse receives from another country. However, if he no longer receives the pension, Petitioner needed to provide verification of the termination of the pension and provide information as to how she was managing without it. (Testimony of Respondent)
8. Previously, Petitioner verified her husband's pension but DFCS included only \$495 as a monthly pension benefit, as not all foreign "income" is counted in a SNAP budget. (Testimony of Respondent)
9. Petitioner provided a statement on January 28, but it was written in a foreign language, so it had to be translated, which did not fully provide the information needed to determine Petitioner's eligibility. Respondent asserts that Petitioner thinks her husband's pension is a resource, not income, and therefore should not be budgeted as unearned income. (Testimony of Respondent)
10. Petitioner's food stamp case closed on January 31, 2022, and remains closed, for failure to verify required information. DFCS could not determine or interpret what Petitioner provided on her January 28 statement, as it was not discernable who earned the pension or how much. Petitioner refused to provide additional information. (Testimony of Respondent; Exhibit R-2)
11. As an aside, during her prior certification period the pension amount was \$990 per month, of which \$495 was excluded. The entire amount is not counted because the person who receives the pension is not a U.S. citizen. (Testimony of Respondent)
12. Petitioner testified that the pension information requested is not income but a resource. And, according to Petitioner, it depends on the resource as to whether or not it has to be counted.
13. Although Petitioner could not define what a resource is, she testified that the pension amount is a resource and not unearned income for purposes of her food stamp case and should not be counted as unearned income. Several documents were submitted with her testimony, most of which were irrelevant to her case.

II. Conclusions of Law

1. The burden of proof is with the Respondent, as it closed Petitioner's SNAP case for failure to verify. (OSAH Rule 7) The standard of proof is by a preponderance of the evidence. (OSAH Rule 21)
2. Must pension funds be counted as income? Yes. Pension is counted as unearned income and is defined as a payment received regularly as a retirement benefit. (Chart 3420.2 -Types of Income; 7 CFR § 273.9)
3. Must the unearned pension income be verified? Yes. At any review, gross income, medical expense, actual utility expenses, ABAWD work hours, compliance with sanctions and incomplete information must be verified. (Manual, Page 3035-2; 7 CFR § 273.2(f); 7 CFR § 273.21(i))
4. Verification is the use of documents, collateral contacts, home visits, computer matches and documentation, which confirms the accuracy of statements and information. (Manual, Page 3035-2; 7 CFR § 273.2(f); 7 CFR § 273.21(i))
5. Petitioner insists that the pension is a resource and provided the Manual Financial Overview and Resources policy for SNAP. The countable resources and income of all household members are considered when determining eligibility and the benefit level of the household. (Manual, Page 3400-1; 7 CFR § 273.8; 7 CFR § 273.9)
6. The resource limits are as follows: For households that contain at least one member who is 60 or older or disabled per Food Stamp policy, the resource limit is \$3,750. For all other households, the resource limit is \$2,500.00. (Manual, Page 3400-1; 7 CFR § 273.8; 7 CFR § 273.9)
7. Chart 3405.1 (7 CFR § 273.8) describes the various types of Resources, and of importance in this case is Manual, Page 3405-19, that lists Pension/Retirement Plans as a type of resource. It reads as follows: A retirement plan provided by an employer. The funds in the plan are excluded as resources by the Food and Nutrition Act of 2008, as amended by Farm Bill 2008. Plans include 401(a) plans, 403(b), 408, 408(k), 408(p), 408(A)457(b) plans, 501(c)(18) plans, and the Federal Thrift Savings Plan. There is no mention of Swedish pension plans in this list, and therefore, the Petitioner's husband's pension plan is NOT an excluded resource for food stamp budget purposes. Lastly, the NOTE states: If the funds are withdrawn, the withdrawal amounts may be considered countable resources or income. For policy regarding income, refer to Pension or Retirement income in section 3420 – INCOME. Thus, the pension that Petitioner is required to verify is (unearned) income. The funds from the pension are clearly withdrawn, and, as it is from a non-US citizen, the entire amount is not counted, but it is included income and not an excluded resource. (Manual, Page 3420-16; 7 CFR § 273.9)

III. Decision

The Respondent's decision to close Petitioner's food stamp case for failure to verify was proper and is **AFFIRMED**.¹

SO ORDERED, this 11 day of March 2022.

Barbara A. Brown

Barbara A. Brown
Administrative Law Judge



¹ Petitioner filed some documents with the court on March 9, 2022 that were either filed too late for a motion to dismiss or too early for a motion for reconsideration. As such, any requests made by Petitioner in said documents are hereby denied.