

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

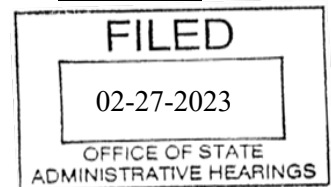
A [REDACTED] A [REDACTED],
Petitioner,

v.

DHS, DIVISION OF FAMILY AND
CHILDREN SERVICES,
Respondent.

Docket No.: [REDACTED]
[REDACTED]-OSAH-DFCS-FSP-44-Fry

Agency Reference No.: [REDACTED]



FINAL DECISION

I. Introduction

Petitioner appealed the decision of the Division of Family and Children Services (“DFCS”) approving her renewal application for benefits under the Supplemental Nutrition Assistance Program (“SNAP”),¹ because DFCS prorated her benefits for the month of September 2022 from September 23, 2022, the date she submitted the application, to end of the month. The hearing was conducted on February 23, 2023, pursuant to 7 C.F.R. 273.15, before the undersigned Administrative Law Judge. Petitioner appeared *pro se* by telephone. Hearing Specialist/Supervisor Deborah Stewart appeared and testified on behalf of DFCS. For the reasons set forth below, Respondent’s decision is **AFFIRMED**.

II. Findings of Fact

1.

Petitioner submitted a renewal application for food stamp benefits on September 23, 2023. Her appointment for her interview was scheduled for September 26, 2021. She never received a call. She did not receive a notice of missed interview, but her application was nevertheless

¹ In 2008, the name of the Food Stamp Program was changed to the Supplemental Nutrition Assistance Program. For the sake of maintaining consistency with the evidence, this decision will continue to refer to the program as the Food Stamp Program.

processed and approved without an interview on October 11, 2022. The interview was waived by DFCS, which it has the authority to do in the case of a renewal application for benefits. There was no evidence that Petitioner contacted DFCS to request a second interview. Petitioner's renewal month was August 2022. Thus, for her renewal application to be timely, it had to have been filed by August 15, 2022. Petitioner intimated that she was scheduled for an interview in August, but did not have any proof of the date and could not remember it specifically. (Testimony of Hearing Specialist and Petitioner.)

2.

On October 11, 2022, DFCS approved Petitioner's renewal application without requiring an interview. DFCS prorated benefits for the month of September 2022 since the application was untimely and was filed within the 30 days following August 2022, the last month of her period of eligibility (POE). According to her record, DFCS sent reminder notices for Petitioner's renewal in July and August 2022. At the time, DFCS was operating under a waiver period whereby if income and other information could be satisfactorily verified through other means, the interview is waived. The Hearing Specialist testified that the interview notice should not have been sent. DFCS, however, is not obligated to conduct the interview if it has waived the requirement. (Testimony of Hearing Specialist.)

3.

Petitioner testified and submitted documentation related to applications (the documentation submitted by Petitioner did not address the requirements for renewals, however) and argued that an interview was nevertheless required. She also testified that had the interview gone forward she could have filed her application over the phone. While Petitioner intimated that the interview was supposed to be in August, she did not know the exact date and had no documentation or other

admissible evidence to show that an interview was scheduled in August. (Testimony of Petitioner.) The only interview that was scheduled and documented in her record was scheduled for September 26, three days after the filing date of her application. As noted by the Hearing Specialist, interviews are scheduled to review a *submitted* application. It is the filing of an application that triggers the scheduling of an interview. Since Petitioner submitted her application on September 23, 2022, there is no factual basis to conclude that an interview would have been or was scheduled in August. As noted, moreover, there is no record of an interview being scheduled in August in Petitioner's SNAP program file. (Testimony of Hearing Specialist)

III. Conclusions of Law

1.

Because this matter involves an appeal of an approval for public assistance benefits, Petitioner who is contesting the amount of those benefits, bears the burden of proof. Ga. Comp. R. & Regs. 616-1-2-.07(1)(d). The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).

2.

The Supplemental Nutrition Assistance Program ("SNAP") (formerly known as the Food Stamp Program) is governed by the Food and Nutrition Act of 2008, 7 U.S.C. § 2011-2036d; 7 C.F.R. §§ 271.1 through 285.5; and the Economic Support Services Manual, Volume III, of the Georgia Department of Human Services ("Food Stamp Manual").

3.

At an initial certification for food stamp benefits, applicants must have an interview with an eligibility worker. 7 C.F.R. § 273.2(e)(1). The state may conduct these interviews by telephone. 7 C.F.R. § 273.2(e)(2). During a recertification or renewal, however, the state may waive the

requirement for an interview. 7 C.F.R. § 273.14(b)(3). DFCS's Food Stamp Manual provides for two types of renewals, standard renewals, which require an interview, and alternate renewals, which do not require an interview. Food Stamp Manual § 3710-4, 3710-5. The Court concludes that DFCS properly waived the interview requirement in this case in accordance with federal regulations and state policy.

4.

Petitioner's reliance on § 3105 of the Food Stamp Manual concerning Application Processing and the requirements for scheduling an interview and for rescheduling a missed interview is misplaced for several reasons. First, the subsection of § 3105 that introduces the interview step in the Food Stamp Manual is called "Interviewing Requirements." The first sentence states, "The interview at *initial* application can be a telephone or face-to-face interview." Food Stamp Manual § 3105-6 (emphasis added). Thus, the subsection cited by Petitioner primarily concerns interviews in the context of an initial application for benefits where an interview is mandatory. Second, § 3710 of the Food Stamp Manual, in contrast, is specific to renewal applications rather than initial applications and it explicitly provides for renewals that do not require an interview, i.e., an alternate renewal. Food Stamp Manual § 3710-5. Third, since the interview was scheduled for September 26, 2022, and there is no admissible or credible evidence to suggest that there was an interview scheduled in August or at any time *before* the her application was filed, the actual filing date of September 23 is more beneficial to Petitioner than if she had done the renewal over the phone on September 26. Fourth, § 3105 further requires that a notice of missed interview must be sent in sufficient time to allow the interview to be rescheduled within the 30-day standard of promptness (SOP) for processing the application following the filing date. In this case, that would have been October 23, 2022. Since the application was processed and

approved almost two weeks prior to the SOP deadline, however, it would be a totally unnecessary waste of resources to schedule an interview. Finally, the provisions regarding scheduling a new interview are all directed to avoiding a situation where DFCS is going to deny benefits for failure to cooperate by missing a mandatory interview. Here that did not happen. Instead, the application was approved on October 11, 2022, well within the 30-day standard of promptness.

5.

In addition to the categories of renewals as “standard” or “alternate,” renewals are also categorized as “timely” or “untimely.”

A timely renewal is an application for continued benefits submitted by the AU between the 1st and 15th day of the last month of the period of eligibility (POE). Eligible AUs are entitled to receive uninterrupted benefits (i.e., benefits are available by their normal issuance cycle).

Food Stamp Manual § 3710-1. The last month of Petitioner’s POE was August 2022.

Section 3710 states in pertinent part:

An untimely renewal is an application for continued benefits submitted by the AU between the 16th day of the last month of the POE, up to the 30th day following the last day in the last month of the POE. ***AUs filing untimely renewals lose the right to receive uninterrupted benefits.***

Food Stamp Manual § 3710-2 (emphasis added). The Court concludes that Petitioner’s application, which was filed on September 23, 2022, was untimely and as a result, Petitioner lost the right to receive uninterrupted benefits.

6.

Regarding the proration of benefits, both § 3105 and § 3710 are clear. Section 3105 states in pertinent part:

An AU’s initial month’s benefits will be prorated *from the date of application* to the end of the month of application.

If an AU reapplies at any time after the 30th calendar day following the last month of the previous certification period, prorate benefits for the first month of the new certification period *from the date of application*. Refer to Section 3710, Reviews.

Food Stamp Manual § 3105-11 (emphasis added).

Section 3107 states in pertinent part:

Forms received in the month following the last month of the POE are treated as untimely renewals and benefits are prorated *from the date the form is received*.

Food Stamp Manual § 3710-6 (emphasis added). Accordingly, when benefits are prorated, the manual consistently provides that they are prorated from the date of the application, or the date the renewal form is received in the case of renewal applications. Since Petitioner's application was filed on September 23, 2022, "it was received in the month following the last month" of Petitioner's POE, and the Court concludes that it was untimely AND that the benefits were properly prorated by DFCS from September 23, 2022, the date of the application.

7.

Petitioner failed to show by a preponderance of the evidence that DFCS's calculation of benefits and its decision to prorate benefits from September 23, 2022 was incorrect.

IV. Decision

Based on the foregoing Findings of Fact and Conclusions of Law, the actions of the agency are **HEREBY AFFIRMED**.

SO ORDERED, this 27th day of February, 2023.



John Fry
Administrative Law Judge

