

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

K [REDACTED] P [REDACTED],

Petitioner,

v.

**DHS, DIVISION OF FAMILY AND
CHILDREN SERVICES,**

Respondent.

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Docket No.: [REDACTED]
[REDACTED]-OSAH-DFCS-FSP-75-Walker

Agency Reference No.: [REDACTED]



08/30/2023


Kristan Moses, Legal Assistant

FINAL DECISION

I. Introduction

Petitioner, K [REDACTED] P [REDACTED], seeks administrative review of the Respondent’s (or “Department”) decision to terminate his Supplemental Assistance Nutrition Program (SNAP) benefits. A hearing in this matter was held on August 15, 2023. Ms. K [REDACTED] W [REDACTED] appeared as the Petitioner’s personal representative and caseworker Ms. Pamela Lowe (“Caseworker”) appeared for the Respondent. For the reasons stated below, the Respondent’s action terminating the Petitioner’s SNAP benefits is **REVERSED AND REMANDED.**

II. Findings of Fact

1.

On or about December 12, 2022, the Petitioner went to the Department’s offices to apply for SNAP benefits. The Petitioner cannot read and has cognitive difficulties. Consequently, he asked if someone could help him complete the SNAP application. In response to his request, a Department employee read the application to the Petitioner, obtained the necessary information, and filled out the application for him. (Testimony of Petitioner; Testimony of K [REDACTED] W [REDACTED].)

2.

By checking a box in the application, SNAP applicants can indicate that they require reasonable accommodations and/or assistance because they have communication difficulties. The Petitioner's application reflects that he had requested the reasonable modifications and/or communication assistance offered by the Department. (Testimony of Caseworker; Testimony of Petitioner.)

3.

The Department approved the Petitioner's initial application, and he began receiving SNAP benefits. On or about June 15, 2023, pending recertification of his SNAP benefits, the Department sent the Petitioner two documents. The first document informed him that the Department had scheduled a telephone interview for June 21, 2023. After sending this letter, Ms. Latasha Hill, the caseworker assigned to process the Petitioner's recertification application, determined that it was unnecessary to conduct an interview and never called the Petitioner. (Testimony of Caseworker; Exhibit R-3.)

4.

The Petitioner received the letter notifying him of the interview scheduled for June 21, 2023, on June 22, 2023. He took the letter to his personal representative, and she explained that due to the late notice he had missed the interview. (Testimony of Petitioner; Testimony of K ■ W ■.)

5.

In addition to the letter notifying the Petitioner of the scheduled interview, the Department's records also reflect that it sent the Petitioner a verification checklist, asking him to provide certain information, dated June 15, 2023. The verification checklist stated as follows:

In accordance with Section 504 of the **Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA)** the **Department of Human Services (DHS)** provides Reasonable Modifications and Communication Assistance to persons with disabilities. More information can be found at Notice of ADA/Section 504 Rights, at <https://dfcs.georgia.gov/adasection-504-and-civil-rights>. (Emphasis in original.)

The requested verification was due on June 25, 2023. (Exhibit R-1.)¹

6.

The Petitioner credibly testified that he never received this letter. As a result, he did not provide the Department with the requested verification by the deadline date. (Testimony of Caseworker; Testimony of Petitioner; Testimony of K ■ W ■.)

7.

According to the Department, the caseworker's notes indicate that she called the Petitioner on June 15, 2023, as a "courtesy" but did not reach him. The notes do not reflect that she left the Petitioner a message or attempted another call. (Testimony of Caseworker; Testimony of Petitioner; Testimony of K ■ W ■; Exhibit R-3.)²

8.

The Department terminated the Petitioner's SNAP benefits on June 27, 2023, for failing to provide the requested verification. (Testimony of Caseworker; Exhibit R-4.)

III. Conclusions of Law

1.

The Respondent bears the burden of proof. See Ga. Comp. R. & Regs. 616-1-2-.07(1)(e). The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).

2.

Congress enacted the SNAP program to combat hunger and malnutrition by providing assistance to low-income households for purchasing food. See Food Stamp Act of 1964, Pub. L. No. 88-525, 78

¹ Additionally, the Department's website states as follows:

If you have difficulty communicating with us because you do not speak English or have a disability, please notify a staff person. Free interpretation services, translated materials or other assistance is available upon request.

<https://dfcs.georgia.gov/snap-food-stamps> (last visited August 29, 2023.)

Stat. 703 (codified at 7 U.S.C. §§ 2011 *et seq.*). SNAP is governed by the Food and Nutrition Act of 2008. 7 U.S.C. § 2011 *et seq.*; 7 C.F.R. § 271.1 *et seq.* States can elect to participate in SNAP and, if they do, are responsible for certifying household eligibility for benefits, issuing benefits, and otherwise administering the program on the state level. *Id.* §§ 2013(a), 2020(a)(1); 7 C.F.R. § 271.4. As a SNAP participant, Georgia has issued state guidelines in the Department’s Economic Support Services Manual, Volume III, of the Georgia Department of Human Services (hereinafter Food Stamp Manual.)

3.

In accordance with federal law, the Department must verify a household's eligibility to receive benefits. 7 U.S.C. § 2020(a)(1). Eligible households are certified to receive benefits for a specific period of time, known as the "certification period." *See* 7 U.S.C. § 2020(e)(4). To continue receiving SNAP benefits after the certification period, a recipient must submit to a review process that includes providing requested verification. Food Stamp Manual 3710-1.

4.

Under 7 U.S.C. § 2015(c), “no household shall be eligible to participate in the supplemental nutrition assistance program if it refuses to cooperate in providing information to the State agency that is necessary for making a determination of its eligibility.” *See* 7 C.F.R. § 273.2(d); Food Stamp Manual 3105-4. To be denied benefits on this basis, the applicant must refuse to provide information that is required to make an eligibility determination. Food Stamp Manual 3105-4, 20. However, if the applicant fails to cooperate because of an inability to do so, then the county office must provide assistance with the application process. 7 C.F.R. § 273.2(d); Food Stamp Manual 3105-4.

5.

Federal law is explicit that applicants for SNAP benefits who have disabilities must be provided the same opportunities as those given to applicants without disabilities. As the Department

2 The Case Note stated, “ALT Renewal 5/2023 CW called client K [REDACTED] W P [REDACTED] (51) at 2:09 p.m. to request of income for PLASMA, client did not answer apt set for 6/21/2023 at 11:15.” (Exhibit R-3.)

acknowledges on its website, in its verification checklist, and in the SNAP application, it is obligated to make reasonable modifications in policies, practices, standards, and procedures when the modifications are necessary to avoid discrimination on the basis of disability. See 28 C.F.R. § 35.130(b)(7); 45 C.F.R. § 84.4(a), (b)(vii).

6.

Given that a Department employee filled out the Petitioner’s initial SNAP application, and the application indicated that the Petitioner required reasonable modifications and/or communication assistance, the Department was aware of its obligation to provide such services. Nonetheless, the evidence at the hearing did not demonstrate that the Department provided the reasonable accommodations required by law. See 7 C.F.R. § 273.2(d); Food Stamp Manual 3105-4; cf. Wiggins v. City of Montgomery, 2022 U.S. Dist. LEXIS 37492, at *45 (M.D. Ala. 2022) (citations omitted) (“It is well settled that an ADA violation occurs when an employer fails to provide ‘reasonable accommodations’ for an employee with a disability, unless doing so would impose an undue hardship on the employer.”)

7.

The Caseworker testified that the assigned caseworker called the Petitioner on June 15, 2023 as a “courtesy,” but provided no indication that she told him that he would need to provide items required by a verification checklist, or even that she left him a message. Sending written notice requiring action by a certain date to an individual who cannot read, without additional assistance, is not reasonable. Additionally, the Department argued that the Petitioner’s personal representative should have read the verification checklist to him. Nonetheless, it is the Department’s, not the Petitioner’s, burden to provide reasonable accommodations. In any event, the un rebutted evidence is that the Petitioner never received the verification checklist. Accordingly, the Department’s decision to close the Petitioner’s case was improper.

IV. Decision

For the reasons stated, this case is **REVERSED AND REMANDED** for the Department's determination as to whether Petitioner would have remained eligible for SNAP benefits had he been provided the assistance required by statute, regulation, and the Food Stamp Manual. If the Petitioner still would have been qualified for SNAP benefits, the benefits should be restored in full beginning from the date of termination. 7 C.F.R. § 273(k)(1)(iii)(E); 7 C.F.R. § 273.17(a) (where an individual has lost benefits as a result of agency error, "[t]he State agency shall restore to the household benefits which were lost whenever the loss was caused by an error by the State agency.")

SO ORDERED, this 30 day of August, 2023.



Ronit Walker
Administrative Law Judge

