

SNAP Conference March 2011

A Guide to the SNAP Appeal Process for Local Agencies

The goal of this guide is to provide detailed information about the SNAP appeal process. It contains step-by-step information, examples, and explanations of actions to be taken during the appeal.

Our hope is that this guide provides useful, clarifying information about the process, and that conference attendees will share this with other staff members within their local agencies.

Please note that the information contained is not intended to, and does not, supersede any SNAP Guidance Manual provisions, regulations, or other authority.

Note: For suggested changes, corrections, additions, etc., please e-mail Candice Owens at Candice.Owens@dss.virginia.gov.

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SECTION 1: APPEAL REQUEST

A. Action Upon Appeal Request from Client or Representative

1. If a client contacts the local agency requesting an appeal, assist the client by completing an appeal form and forwarding to the Division of Appeals and Fair Hearings (AFH). *“If a household makes an oral request for a hearing, the local agency must complete the procedures necessary to start the hearing process...Local agencies must help the claimant submit and process the request...” (SNAP Manual 19.C)*
2. No specific appeal request form is required, as long as the pertinent information is included. However, you can use any of the following:
 - The state form
 - An internal local agency form
 - Form we use in AFH
3. Complete the fields and fax the appeal request to AFH in Richmond at **(804) 726-7656**
4. The client or anyone acting on his behalf may request the appeal *(SNAP Manual 19.C)*

B. What can be appealed?

1. The appeal right is generally very broad, and virtually any action can be appealed. *A household that is aggrieved by any local agency action may request a hearing (SNAP Manual 19.C).*
2. Even if the matter being appealed is invalid – the person can still submit an appeal request.
3. The validation process must be completed to allow a hearing officer to review the request, determine validity, and send the claimant written notification if the appeal request is invalid.

SECTION 2: THE VALIDATION PROCESS

A. Validation Documents from AFH

1. Once the appeal request is received by AFH in Richmond it is entered into the Automated Appeals Tracking System (AATS)
2. The local agency and assigned hearing officer are sent:
 - A memorandum (directed to the local agency appeal contact person)
 - A blank validation form (for completion by local agency)
 - A copy of the appeal request

B. Validation Form and Notice of Action (NOA)

1. Complete and send the validation form within five (5) business days of your receipt of the form.
2. The Validation Form should be completed, even if you think the claimant may withdraw in the future, or that the appeal request is invalid.
3. Send the Notice of Action (NOA) with the validation form.
4. If the claimant has withdrawn (verbally or in writing) prior to your submission of the validation form, note that on the validation form. If the claimant withdrew in writing, attach a copy of the withdrawal (in lieu of the NOA) to the validation form.

C. Specific Steps for Completing the Validation Form

1. Date of Action & NOA: If there were multiple actions, the date of action and notice to use is the date of the notice that relates the action being appealed.

Even if a subsequent action was taken, the NOA that relates to the claimant's appeal request should be sent. You may send subsequent notices, if you believe they are relevant. However, the initial notice sent to the claimant, which the claimant references in his or her appeal request, is the one that must be sent with the Validation Form

Example 1: Action Proposed, but not taken

- 3/4/09 - agency sends claimant a NOA, advising her that SNAP case is suspended, effective 3/31/09
- 3/13/09 - claimant requests an appeal

- 3/17/09 - The agency determines the suspension was erroneous and reinstates the SNAP case. A new NOA is sent on 3/17/09, advising the claimant his case is reinstated, effective 3/31/09.

The “Date of Notice” on the Validation Form would be 3/4/09, and the agency action would be “suspension”, because that is the action that the claimant appealed.

Send both notices 3/4/09 and 3/17/09 and note that the “suspension was rescinded, no interruption in benefits.”

Example 2: Appeal of Interim Report Action

- The claimant’s SNAP case was terminated due to a failure to return Interim Report (IR) verifications.
- Claimant files an appeal request after he does not receive his SNAP allotment.

The relevant notice to send with the Validation Form is the Interim Report – Request for Action. This is the written notice that advised him that his case would be terminated, and of his appeal rights.

2. Valid/Invalid: Mark whether you believe the appeal request is Valid or Invalid. Generally, the appeal request is valid if filed within 90 days of the notice. However, if you believe it is invalid – provide simple a explanation on the “Reason for Action” line. (see Sec.4)
3. Continued Benefits: Indicate whether action has been taken to continue benefits. Generally, benefits should be continued if the date of the appeal request was within the advance notice period.(see Sec.5).

SECTION 3: VALIDITY OF APPEAL REQUESTS

A. Invalid Appeals - General Rules

An appeal request is invalid if:

1. Filed after the 90 day time limit
2. The claimant never filed an application and has no case in the agency* (*see Exception below, in B.4*)
3. No action was taken on case* (*see Exception below in B.1*)

B. Exceptions/Gray Areas

1. The following appeal requests are valid even where no action was taken:
 - A recipient can appeal the SNAP benefit amount at any time during the certification period
 - Applicants/recipients can appeal a failure to act

2. Action rescinded PRIOR TO the effective date:

If the action is rescinded prior to the effective date, the appeal is invalid. This is because the action was proposed, but not actually taken. There was no action taken to be appealed. (*See Example 1, in Section 3, pg.4*).

Action needed by agency:

- 1) Mark “invalid” on the validation form
- 2) Check the space for “No Action”
- 3) Write “action rescinded prior to effective date” on the validation form in the “Reason for Action” section.

3. Action rescinded AFTER the effective date:

If the action is rescinded after the effective date, the appeal is valid. This is because the action was taken and applicants/recipients have the right to appeal any action.

Action needed by Agency:

- 1) Advise the claimant that the action was rescinded.
- 2) If he or she no longer wants the appeal, obtain a withdrawal statement (verbal or written)
- 3) notify the hearing officer of the withdrawal

4. Valid regardless of origination of action:

The claimant can appeal regardless of whether the action was local agency, state, or system generated. For example: where a claimant’s case is automatically terminated due to a failure to return the IR. Even though the worker did not have to take action to close the case, there was a termination. The termination is the appealable action.

5. Valid even when no case is in the agency:

Appeals are the responsibility of the agency which took the action, even if the claimant later moves to another locality or state. If the case is in another locality, request the case (or relevant documents) in order to prepare the Appeal Summary.

SECTION 4: CONTINUED BENEFITS

A. Continued benefits are required pursuant to U.S. Supreme Court decisions. VDSS does not have the authority to eliminate the requirement.

B. Benefits must be continued through the appeal process, if the appeal request occurred during the advance notice period.

1. The claimant does not have to request continued benefits. He or she is automatically entitled if the appeal request was filed during the Advance Notice period.
2. Once you receive notification that the appeal request was filed (receipt of the validation form), take action to continue benefits if the appeal was requested within the Advance Notice Period.
3. You should not wait for approval from the hearing officer to take action to continue benefits, unless you believe that the appeal request is invalid. In that instance, contact the hearing officer to discuss.
4. Exception: Do not continue benefits if the claimant specifically states, in writing, that he or she does not want them. (*SNAP Manual 19.F.*)

C. Advance Notice Period

The advance notice period is the timeframe from the date the claimant was notified of the action (date NOA is mailed) through the date of the effective action. (*SNAP Manual 19.F.*)

1. The advance notice period must be at least ten (10) days, but can be more.
2. This means that a claimant may be entitled to continued benefits even where the appeal request was made after more than 10 days following the date of the NOA.

Example

- 9/15/10 – NOA sent to terminate SNAP case, due to excess income, effective 9/30/10. The advance notice period is 9/15/10 through 9/30/10.
- She requests an appeal on 9/27/10
- She is entitled to continued benefits, because her appeal request occurred during the advance notice period.

Note: this is true even though the appeal request was made more than 10 days after the date of the NOA.

3. Apply the 10-day rule for determining entitlement to continued benefits where the claimant is **given less than 10-days advance notice of the proposed reduction or termination of assistance.** (7 CFR 273.13(a)(3)(v)). In this instance, if the appeal was requested within 10 days of the notice, continue benefits.

Example

- March 26, 2009 – Notice of Action is sent advising recipient that the Food Stamp allotment will be reduced from \$230.00 to \$150.00 effective March 31, 2009.
- April 2, 2009 – Claimant's appeal request is received
- Claimant is entitled to continued benefits. His appeal request was received seven (7) days after notification of the proposed reduction.
- Since this was within 10 days of the notification of the reduction, he is entitled to continue to receive benefits in the amount of \$230.00 through the appeal process.

D. Amount of Benefits Continue & Notice

1. Benefits continue in the amount that was authorized prior to the proposed termination or reduction. This is true regardless of the reason for the termination or reduction.
2. Send a notice to the claimant advising him or her that benefits have been continued

E. Duration

Benefits should be continued at the level prior to the proposed action until/unless:

1. The certification period ends;
2. the appeal issue is one of federal law or regulation and written notice has been received from the hearing officer;
3. Other factors or circumstances affecting eligibility occur;
4. A mass change affecting the household's eligibility or basis of issuance occurs while the appeal is pending; or
5. A final determination regarding the appeal has been made.

F. Interim Report

1. Claimant's are entitled to receive continued benefits, during the appeal, where the case was terminated or reduced at the Interim Report; *only if* the appeal request was filed within 10 days of the notice advising the claimant of the reduction or termination. (7 CFR 271.2 & 2 CFR 273.12(a)(5)).

2. Generally, this notice will be the Interim Report Form – Request for Action.
3. If the appeal request was filed within 10 days of the mailing date of the notice (whether it was the Interim Report – Request for Action or other notice) then claimant is entitled to continued benefits
4. If the appeal was filed after 10 days of the mailing date of the notice, then the claimant is NOT entitled to continued benefits.

Example 1: Not Entitled to Continued Benefits:

- **February 5th** - Interim Report (IR) was due, but not received (the fifth day of the sixth month)
- **February 12th** - An “Interim Report Form – Request for Action” is sent, advising the client to submit the IR by February 22nd
- The report is not returned and no other action is taken on the case
- **March 1st** - The SNAP case is suspended on March 1, 2011 (the seventh month), due to non-receipt of IR
- **March 13th** – the claimant submits an appeal request, because he has not received benefits for March.

Outcome:

- **Claimant is not entitled to continued benefits:** because appeal request did not occur within 10 days of the February 12th “Interim Report Form-Request for Action”

Example 2: Entitled to Continued Benefits:

- **February 5th** - Interim Report (IR) was due, but not received (the fifth day of the sixth month)
- **February 12th** - An “Interim Report Form – Request for Action” is sent, advising the client to submit the IR by February 22nd
- **February 19th** - The IR is returned, but additional verification is needed
- **February 26th** – Another “Interim Report Form – Request for Action,” is sent, advising the claimant to submit the verification by March 6th
- The SNAP case has been automatically suspended because the IR process has not been completed.
- **March 4th** - the claimant submits an appeal request because he has not received March SNAP benefits.
- **March 4th** – agency receives verification showing that claimant’s household is no longer eligible and terminates the case.

Outcome:

Claimant IS entitled to continued benefits: because appeal request occurred within 10 days of the February 26th Interim Report Form-Request for Action”

G. Effect of New Application While Appeal Is Pending With Continued Benefits

1. A claimant can submit a new application, even while an appeal is pending with continued benefits.

This is because a person has the right to apply at any time. The appeal cannot be “held against” the claimant to prevent him or her from submitting an application. Also, if applicants were prohibited from submitting a new application while an appeal is pending, it would be a deterrent for appeals. We cannot do this because the right to appeal cannot be interfered with.

2. Even if the new application is approved, while the appeal is pending with continued benefits, it will not result in the receipt of duplicate benefits.

Example:

- **November 15th** - Claimant submits an appeal request of November 8th termination, regarding verification issue (effective November 30th), and receives continued benefits, in the amount of \$80.00, during the appeal process.
- Hearing is scheduled for January 12th
- **December 21st** - Claimant submits a new application; application is approved for \$80.00
- Hearing is held on January 12th and a decision is issued on February 2nd (see below for the alternative results of the decision)

Effect on continued benefits If claimant WON appeal:

- December Issuance: Benefits had already been issued in December, as a result of the appeal and continued benefits. So after the December 21st approval, no benefits will be issued in December, because the household already received benefits for that month
- Remember - continued benefits can stop if “other circumstances affecting eligibility occur.” In this instance, a new period of entitlement (a new certification period) began, effective December 21st
- The benefit issuance for January will be pursuant to the December 21st approval (not continued benefits for the appeal).
- Since the claimant won the appeal, he was entitled to the benefits he received from December 1st – December 21st, and he does not have to repay continued benefits. Additionally, the agency does not have to issue supplemental benefits, because the claimant already received what he was entitled to during the appeal, and because of the approval.

Effect on continued benefits If claimant LOST appeal:

- Claimant will have to re-pay the benefits he received from December 1st – December 21st, because he was not entitled to those benefits. That is, the termination, effective November 30th was correct and he was not eligible for any benefits from that time, through the time of his December 21st approval.
- Only one month of benefits were overpaid, December. He was entitled to the benefits he received in January, because of the new application and approval.

SECTION 5: LOCAL AGENCY CONFERENCE

The purpose of the conference is to allow the recipient to receive a verbal explanation of the reason for the action, clarify any misunderstanding, and to allow him to voice his or her concerns/disagreements.

A. Conference

1. If requested by the claimant, it must be scheduled within ten working days of the request. (*SNAP Manual 19.E.*)
2. A supervisor or director must attend the conference. If an Employment Services Program (ESP) issue is involved in the action being appealed, an ESP representative must also participate. (*SNAP Manual 19.E*)

B. Benefits of A Conference

1. Once the claimant understands the reason behind the action, and that the action was policy driven (e.g., beyond your control, not personal, etc.), he or she may decide to withdraw the appeal request; eliminating the need to write an appeal summary and to attend a hearing.
2. It provides an opportunity to double check the action taken and guidance provisions to determine if there were any errors. If there was an error; the matter can often be corrected and resolved prior to the hearing, or may result in a withdrawal.
 - For example, the claimant may have been denied based upon gross income. However, upon second look you realize that there was a disabled household member and the net income limit should have been applied, rendering the claimant eligible.

SECTION 6: WITHDRAWALS

- A. Claimants may withdraw the appeal request at any time, even during the hearing.**
- B. Withdrawals can be verbal or written** (SNAP only, all other programs require a written statement).
1. If you receive a verbal withdrawal, notify the hearing officer by an e-mail or fax.
 2. Please do so, even if the claimant tells you that he or she will call the hearing officer. Sometimes they do not which results in the hearing officer not being notified and action not being taken to close the appeal.
- C. Continued benefits** – be sure to advise the claimant that he or she will have to repay any benefits received during the appeal process, if he or she chooses to withdraw.

SECTION 7: APPEAL SUMMARY

(SNAP MANUAL 19.G)

A. Purpose of the Appeal Summary

1. The purpose of the Appeal Summary is to provide a detailed, policy based account of the agency action.
2. The Appeal Summary should provide enough information to allow the claimant to understand the action taken, and prepare for the hearing.
3. It should address the action being appealed. You can address subsequent action, if you believe it is relevant, but the action being appealed is the most important focus.

B. Sending the Appeal Summary

1. Send a copy of the Appeal Summary to the claimant and hearing officer at least five days prior to the hearing.
2. If the fifth day prior to the hearing falls on a weekend or holiday, the summary should be sent on the business day prior to the holiday or weekend. Example: If a hearing is scheduled on a Thursday, the appeal summary should be sent out on the prior Friday, because waiting until Monday would not provide a full five days prior to the hearing.
3. Only one copy needs to be sent to the hearing officer.
4. If the claimant has a representative, a copy must be sent to that person also.

5. If the claimant does not receive the Appeal Summary in a timely manner; he or she will have the option of rescheduling the hearing – to allow adequate time to prepare.

C. General Content of the Appeal Summary

1. **Identifying information** – list information about Agency, claimant, and household.
2. **What happened** – Specify actions taken, information requested, dates, etc.

Example: SNAPET Sanction – State the participation requirement, dates claimant signed any forms agreeing to participate, when and how agency learned about non-compliance, whether the claimant stated any reason for the alleged non-compliance, and the reason the agency determined that good cause did not exist.

Example: Failure to provide verification – specify what verification was requested, date of the request, and date action to deny, terminate, or reduce benefits took place, any statements made by claimant about the matter

Example: Excess Net Income/Insufficient Benefit: State the gross income, explain how it was calculated, state the expenses and deduction applied to the gross income to determine net income and/or benefit amount. State any disagreements or issues raised by claimant, and the agency's response

3. **Citations** - Include BOTH the Guidance Manual citation and language.

Reminder: the purpose of the Appeal Summary is to allow the claimant to prepare for the hearing. The language of the citation needs to be included for him or her to understand the reason underlying the action.

Benefit to you: Provides an opportunity to review the specific guidance language and ensure that no errors were made. For example: if there was a verification issue - was the verification properly requested (e.g. in writing, sufficient time, etc.)?

Tip: You can cut & paste from the online manual without the blue background and formatting.

1. Once you open the relevant Part and Section, and the provisions you want to use are displayed on the right side of the screen –

2. Click “Print This Page.” A new box will open with the provisions. A smaller “Print” box will be overlaid
3. Click “Cancel.” The smaller print box will disappear. You can then cut & paste the provisions you need from the larger box containing the provisions.
4. **Documentation** - Include relevant documents in the hearing officer’s and claimant’s copies. Provide documents relating to the action being appealed and/or issues in dispute such as:
 - ADAPT Screens
 - SVES Reports
 - Work Number Reports
 - Income Verification Forms
 - Relevant documents provided by the claimant and/or third parties

Example 1:

- Appeal issue: insufficient allotment or Net Income Denial
- Documents to include: SNAP Net Income/ Allotment Summary & SNAP Deduction Calculation Screens
- These show the income, expenses, and deductions applied to determine the net income (which also determines the benefit amount).

Example 2:

- Appeal Issue: Failure to provide Verification Issue
- Documents to Include: Copy of the Verification Request(s), any document submitted by claimant related to issue being appealed.

SECTION 8: THE HEARING

A. Location

The hearing is generally held at the local agency. However, a different location is also allowed where both parties agree.

B. Transportation

The local agency must assist the claimant with transportation to the hearing, if requested. (*SNAP Manual, 19.J*)

C. Claimant should attend hearing in person

The claimant can participate by phone only if he or she has a medical condition which prevents him from attending, or if the claimant is outside of the locality.

D. Who must participate:

1. Eligibility Appeals - Any Eligibility worker/supervisor may participate in the case. The worker who took the action is not required to participate. However, the person that does participate must be prepared to address issues relevant to the claimant's case and the appeal.
2. SNAPET Appeals – An employment services representative must participate, in addition to Eligibility Staff.

E. At the Time of the Hearing

1. Call the hearing officer once the claimant has arrived for the hearing.
2. If the claimant does not arrive, allow fifteen minutes following the scheduled hearing time, and contact the hearing officer to advise that claimant failed to appear.

F. During the Hearing

1. Procedure - The hearing officer will introduce herself/himself and explain the procedure of the hearing. Unless the claimant objects, the hearing begins with the agency presenting the appeal summary. Then the claimant can respond and make any statements.
2. Formal Address - These are formal hearings, which may be reviewed by a court. For that reason, during the hearing everyone should be addressed formally – the hearing officer, the agency staff, the claimant and his or her representatives.
3. Parties' Statements - Both parties will be given an opportunity to explain their positions.

There may be subjects, issues, or questions that seem irrelevant. However, because the claimant has the right to advance arguments and question/refute evidence, he or she will be given broad latitude in his or her statements.

Don't argue back and forth with the claimant. He or she may make statements with which you disagree. You can just ensure that the hearing officer has heard your disagreement or account of events. The claimant's agreement with you or understanding your point is not necessary during the hearing. The hearing officer will acknowledge both parties' statements, and address the issue, if relevant, in the written decision.

4. Claimants' Rights:
 - Examine documents. They are also entitled to copies of any and all records in the case file, (except those that are confidential) before the hearing
 - Present his or her case
 - Bring Witnesses
 - Advance arguments without undue influence

- Question or refute any testimony or evidence
- Submit evidence

G. Claimant Failure to Attend the Hearing:

1. If the claimant fails to appear for the hearing:
 - Notify the hearing officer.
 - The hearing officer will send the claimant a “failure to appear” letter, providing the claimant with an opportunity to provide a good cause reason for the failure to appear. Only one letter will be sent.
 - Once the required timeframe has passed and you have not heard from the hearing officer or claimant about the hearing, you may proceed with the initially proposed action on the case
2. If the claimant contacts the local agency about the missed hearing:
 - Advise the claimant to contact the hearing officer
 - Notify the hearing officer that the claimant contacted you
3. If the claimant contacts the hearing officer or AFH within the required timeframe, the hearing officer will notify you, and the hearing will be rescheduled.
4. If the claimant fails to contact the hearing officer or agency with good cause during the required timeframe, the appeal will be dismissed as abandoned.
5. Take the initially proposed action on the day following the timeframe in the “failure to appear” letter if you have not heard from the hearing officer or claimant.

SECTION 9: DECISION OR OTHER DISPOSITION OF APPEAL

A. Appeal Closure - The appeal can only be closed by one of the following dispositions:

1. Decision
2. Withdrawal
3. Invalid Appeal
4. Abandoned Appeal
5. Death of all household members

B. Decisions will state whether the agency action is sustained or reversed.

1. If the agency action is reversed, it will provide instructions on how the agency is to proceed to correct the error.

2. The corrective action should be taken within 10 days of receipt of the decision.
3. The agency can request a review by the Appeals Review Panel. It will not change the decision, but will cause the procedures to be reviewed. It must be submitted in writing within 10 days of the date of the decision. (*SNAP Manual 19.M*).

C. Final Decision & Continued Benefits - The written decision is considered the final action on the appeal. If the claimant lost the appeal, benefits do not continue even if he or she requests a circuit court appeal.

SECTION 10: MISCELLANEOUS

Hearing officers do not have access to ADAPT, or any other agency systems.

1. That is another reason local agencies are asked to provide copies of supporting documents and ADAPT screens.
2. When you are contacting a hearing officer or AFH office for a status check or other reasons, it is helpful if you can provide the AATS (Automated Appeals Tracking System) Control #. This is the number listed on the upper left hand corner of the validation form.