



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
416 Adams St., Suite 307  
Fairmont, WV 26554

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

June 24, 2015

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 15-BOR-2210

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Thomas E. Arnett  
State Hearing Officer  
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision  
Form IG-BR-29

cc: Lora Rexrode, ESW, WVDHHR

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BOARD OF REVIEW**

██████████,

**Appellant,**

**v.**

**Action Number: 15-BOR-2210**

**WEST VIRGINIA DEPARTMENT OF  
HEALTH AND HUMAN RESOURCES,**

**Respondent.**

**DECISION OF STATE HEARING OFFICER**

**INTRODUCTION**

This is the decision of the State Hearing Officer resulting from a fair hearing for ██████████. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' Common Chapters Manual. This fair hearing was convened on June 23, 2015, on an appeal filed June 2, 2015.

The matter before the Hearing Officer arises from the April 17, 2014 decision by the Respondent to terminate Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Lora Rexrode, Economic Services Worker, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of Decision dated 3/17/15
- D-2 Notice of Decision dated 4/17/15

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

**FINDINGS OF FACT**

- 1) On March 17, 2015, Appellant was notified (D-1) that as a condition of continued eligibility for Supplemental Nutrition Assistance Program (SNAP) benefits, she was required to register with WorkForce West Virginia, formerly Bureau of Employment Programs (BEP), by April 15, 2015.

- 2) Respondent received a computer-generated alert on April 16, 2015, indicating the Appellant was not registered with WorkForce West Virginia. Because this was the Appellant's second SNAP work penalty, she was notified of a second-level violation on April 17, 2015 (D-2), which indicates she will be ineligible for SNAP benefits for a period of six (6) months, or until compliance, whichever is longer. The penalty was effective May 1, 2015.
- 3) Appellant contended that she has been having problems with receiving her mail. She reported that she believes she is being punished for something that is not her fault. She indicated that she has advised her post office and they reportedly told her that they cannot do anything about it.
- 4) The Appellant received the Scheduling Order notifying her of the hearing and confirmed that her mailing address was correct at the onset of the hearing. Respondent's representative purported that none of the Appellant's mail had been returned to the Department as undeliverable, and the Appellant did not provide any evidence to corroborate her claim.

### **APPLICABLE POLICY**

West Virginia Income Maintenance Manual § 13.5.1.A, provides that all mandatory individuals must register for employment with WorkForce West Virginia, within 30 days of the date of the original approval, unless exempt according to Section 13.2. Recipients must register every 12 months thereafter, regardless of the length of time that WorkForce West Virginia considers the registration valid. Actions which constitute a registration are defined by WorkForce West Virginia.

Once the client registers with WorkForce West Virginia for SNAP purposes, he cannot be required to register more often than every 12 months, even when the benefit is opened and closed within the 12-month period. This is tracked through RAPIDS.

Policy found in the West Virginia Income Maintenance Manual § 13.6.A.2, states that a non-WV WORKS recipient who refuses or fails to register with WorkForce West Virginia, refuses employment or refuses to provide information about employment status and job availability is subject to the following penalties for at least the minimum penalty period or until he reports a change which makes him exempt from the work requirements. (See Section 13.2 for exemptions.)

- First violation: The individual is removed from the Assistance Group (AG) for at least 3 months or until he meets an exemption, whichever is later. If after 3 months, the individual has not complied or met an exemption, the penalty continues until the failure or refusal stops, or until the individual reports a change that makes him exempt according to Section 13.2 for some reason other than UCI-related activities.

- Second violation: The individual is removed from the AG for at least an additional 6 months or until he meets an exemption, whichever is later. If after the 6 months, the individual has not complied or met an exemption, the penalty continues until the failure or refusal ceases, or until the individual reports a change that makes him exempt according to Section 13.2 for some reason other than UCI-related activities.

- Third and subsequent violations: The individual is removed from the AG for at least an additional 12 months or until he meets an exemption, whichever is later. If after the 12 months, the individual has not complied or met an exemption, the penalty continues until the failure or refusal ceases, or until the individual reports a change that makes him exempt according to Section 13.2 for some reason other than Unemployment Compensation Insurance (UCI)-related activities.

### **DISCUSSION**

The Appellant acknowledged that she did not register with WorkForce West Virginia as required by Respondent, but indicated she was unaware of the obligation because she was having difficulty receiving her mail. The Appellant contended that she has conveyed the problem to her local post office, but was reportedly advised that nothing could be done. While Appellant protested that she was not told she would need verification from the post office to corroborate her claim, when afforded the opportunity during the hearing, she conceded that she would be unable to secure that information. The facts of the case demonstrate that the Appellant's address has been confirmed. The Appellant received the scheduling notice advising of the hearing and none of the Appellant's mail has been returned to the Respondent as undeliverable.

### **CONCLUSION OF LAW**

Respondent was correct to impose a second-level SNAP penalty against the Appellant for failing to register with WorkForce West Virginia by April 15, 2015.

### **DECISION**

It is the decision of the State Hearing Officer to UPHOLD the Department's action to terminate the Appellant's SNAP benefits and impose a second-level penalty effective May 1, 2015.

**ENTERED this \_\_\_\_ Day of June 2015.**

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**Thomas E. Arnett  
State Hearing Officer**