



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL

Earl Ray Tomblin
Governor

BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313
(304) 746-2360, ext. 2227

Karen L. Bowling
Cabinet Secretary

September 10, 2015

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 15-BOR-2833

Dear Mr. [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,

Donna L. Toler
State Hearing Officer
Member, State Board of Review

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

cc: Tera Pendleton, Economic Service Worker

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

██████████,

Appellant,

v.

ACTION NO.: 15-BOR-2833

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on September 10, 2015, on an appeal filed August 11, 2015.

The matter before the Hearing Officer arises from the May 12, 2015 decision by the Respondent to impose a six-month work requirement penalty on the Appellant and his wife, ██████████, resulting in a reduction of the household's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case Comments computer screen print, dated December 26, 2014 through July 29, 2015
- D-2 Correspondence from DHHR ██████████ to the Appellant, dated April 1, 2015, December 26, 2014 and May 12, 2015
- D-3 Correspondence from DHHR ██████████ to the Appellant, dated May 12, 2015
- D-4 Case Benefit Summary computer screen print, dated October 2014 through August 2015
- D-5 West Virginia Income Maintenance Manual (IMM), §13.6.A.2

Appellant's Exhibits:

None

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 December 26, 2014, the Department issued to the Appellant notice informing him that he was required to register with WorkForce West Virginia (Workforce) by January 23, 2015. (Exhibit D-2)
- 2) On April 1, 2015, the Department issued to the Appellant notice informing him that his wife, [REDACTED] was required to register with Workforce by April 30, 2015. (Exhibit D-2)
- 3) The December 26, 2014 and the April 1, 2015 notices included instructions that if the Appellant and his wife failed to register by the due dates, but prior to the end of the month in which the registration was due, they must notify the local office. (Exhibit D-2)
- 4) Both the December 26, 2014 and April 1, 2015 notices indicated that that the Appellant and his wife had to contact the local DHHR office if they were unable to work. The notice included an outline of specific reasons he and his wife could be exempt from the registration requirement as follows (Exhibit D-2):

Receiving SSI	Receiving minimum earnings equal to
Physical or mental inability to work	30 hours per week
Employed 30 hours per week	Receiving Unemployment
In a drug or alcohol treatment program	Compensation
Enrolled in school/training	Caring for a child under age 6
at least ½ time	Caring for an incapacitated person

- 5) On May 12, 2015, a Department worker completed a SNAP redetermination for the Appellant and noted that the Appellant and his wife had failed to register with Workforce. (Exhibit D-1)
- 6) On May 12, 2015, the Department issued notices to the Appellant and his wife that SNAP work requirement penalties had been applied to the Assistance Group's SNAP benefits for failure to register with Workforce. The letter notified the Appellant that the sanction would remain on him and his wife for six (6) months or until they complied with the registration requirement, whichever is longer. The monthly SNAP benefits were reduced from \$649 to \$357 per month. (Exhibit D-3)

- 7) The Department's representative provided testimony that the sanction period was to run for three (3) months.
- 8) The Appellant registered with Workforce on March 12, 2015. The Appellant's wife registered with Workforce on July 24, 2015.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) §13.5.A.1 requires that all mandatory individuals register for employment with Workforce West Virginia within 30 days of the date of the original approval, unless exempt. Recipients are required to register every 12 months thereafter, regardless of the length of time that Workforce West Virginia considers the registration valid.

WV IMM §13.5.A.2 indicates that during the application and redetermination process, eRAPIDS will present a registration date obtained from WorkForce West Virginia. If the client is not registered, no date will be returned. During the certification period, the Worker may request the registration date through eRAPIDS. The client is only required to register with WorkForce West Virginia every 12 months for SNAP purposes. When the client is due to re-register, he must show activity to fulfill this requirement. The date of the re-registration is the date of the last action with WorkForce West Virginia or the due date of the re-registration, whichever is later

WV IMM §13.2.A.2 lists exemptions to the Bureau of Employment Programs registration requirement of SNAP. They are: 1) a person under age 16; 2) a person age 16 or 17 who is not the primary person or payee of the assistance group (AG); 3) a person who is 16 or 17 who is attending school or enrolled in an employment training program on at least a half-time basis; 4) a person enrolled at least half-time in any recognized school, training program or institution of higher education; 5) a person age 60 or older; 6) a parent or other member of the AG who has the responsibility for the care of a child under six years old; 7) individuals who receive unemployment compensation; 8) individuals who are physically or mentally unfit to engage in full-time employment; 9) regular participants in drug addiction or alcoholic treatment and rehabilitation programs; 10) individuals who are employed or self-employed and working a minimum of 30 hours per week or receiving weekly earnings equal to the federal minimum wage multiplied by 30 hours; 11) individuals who receive WV WORKS and do not meet any of the other SNAP exemptions listed above, so long as they are subject to and complying with a WV WORKS work requirement.

WV IMM Chapter §13.6.A.2 outlines SNAP work requirement penalties. Recipients who refuse or fail to register with Workforce West Virginia are 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. First violation: the individual is removed from the SNAP Assistance Group for at least 3 months or until he meets an exemption, whichever is later. Second violation: Second violation: The individual is removed from the AG for no more than 6 months or until he meets an exemption, whichever is less. If the individual does not meet an exemption prior to the end of the penalty, he is added back into the AG for 6 months.

DISCUSSION

The Appellant acknowledged that he did not register with Workforce before the deadline date of January 23, 2015. He testified that on March 12, 2015, he was told by a Department worker that he, his wife and son were required to register with Workforce. The Appellant stated that on March 12, after speaking with the worker, he, his wife and son went to the Workforce office and completed registration requirements. The Appellant reported that Workforce had record that he registered on March 12, 2015, but did not have record of his wife and son registering. Case comments entered by a Department worker on July 23, 2015, confirmed the Appellant's testimony that he had registered in March 2015. The Department worker recorded that the Appellant had been seen at the local office with questions regarding the work requirement sanction. Case notes read in part as follows: that "[Workforce] sanction is lifted he has been registered since [M]arch 2015". It is unclear why the sanction remained after a Department worker documented it should be removed for the Appellant. It is also unknown why the Department's electronic database known as eRAPIDS did not contain information that the Appellant had registered with Workforce in March 2015, when a Department worker entered his redetermination information on May 12, 2015.

While the Appellant testified that his wife accompanied him to the Workforce office on March 12, 2015, there was no proof that she complied with registration requirements at that time. The Appellant speculated that the reason it was not documented by Workforce was due to an error on its part, but he was unable to provide any documentation to support his theory.

It is unclear if the Appellant's wife should serve a three (3) month or a six (6) month work requirement penalty period. Testimony provided by the Department's representative that the sanction should run for a three (3) month period conflicted with the six (6) month penalty period outlined in the Department's notices to the Appellant.

CONCLUSION OF LAW

- 1) The Appellant complied with SNAP work requirements as outlined in policy by fulfilling his obligation to register with Workforce in March 2015, prior to the completion of his redetermination for benefits and implementation of the work requirement penalty in June 2015, and was not subject to a work requirement penalty.
- 2) The Appellant's wife complied with SNAP work requirements by providing verification of registering with Workforce on July 24, 2015. However, because the Appellant's wife failed to register with Workforce prior to the implementation of the work requirement penalty which began on June 1, 2015, the Department acted correctly to impose a work requirement penalty on the Appellant's SNAP benefits.
- 3) It is unclear from evidence presented during the hearing whether the Appellant's wife's action of failing to comply with SNAP work requirements is her first or second violation and whether she is subject to a three (3) month penalty period or a six (6) month penalty period.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Department's decision to impose a work requirement penalty on the Appellant for failure to register with Workforce. Any benefits owed to the Appellant for the Department's error in imposing a work requirement penalty shall be restored in accordance with policy.

It is the decision of the State Hearing Officer to **uphold** the Department's decision to impose a work requirement penalty on the Appellant's wife for failure to register with Workforce to begin in June 2015.

It is the decision of the State Hearing Officer to **remand** to the Department to review its decision to impose a work requirement penalty on the Appellant's wife for a period of six (6) months. Testimony provided by the Department's representative that the penalty should be for three (3) months conflicted with the noticed penalty period of six (6) months. The Department shall review the case information to determine if the current inaction by the Appellant's wife is a first or second violation of the SNAP work requirements. In the event the Department determines that it is the Appellant's wife's second violation, notice shall be sent to the Appellant's wife clarifying the matter and providing her the opportunity to request a Fair Hearing regarding the same.

ENTERED this 10th Day of September, 2015.

Donna L. Toler
State Hearing Officer