



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
203 East Third Avenue  
Williamson, WV 25661

Earl Ray Tomblin  
Governor

Karen L. Bowling  
Cabinet Secretary

September 30, 2015



RE: [REDACTED] v. WV DHHR  
ACTION NO.: 15-BOR-2887

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,

Stephen M. Baisden  
State Hearing Officer  
Member, State Board of Review

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

cc: Sarah McCallister, WV DHHR, [REDACTED] County Office

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

██████████,

**Appellant,**

**v.**

**ACTION NO.: 15-BOR-2887**

**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 23, 2015, on an appeal filed August 14, 2015.

The matter before the Hearing Officer arises from the July 7, 2015 decision by the Respondent to discontinue the Appellant's receipt of SNAP benefits because she did not register with Workforce West Virginia (herein Workforce WV).

At the hearing, the Respondent appeared by Representative Sarah McCallister, Economic Service Worker. Appearing as a witness for the Respondent was Nicole Hinzman, Economic Service Worker. The Appellant appeared *pro se*. Appearing as witnesses for the Appellant were ██████████, her father, and ██████████, a family friend. The participants were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 WV DHHR Income Maintenance Manual (IMM), Chapter 13, §13.2
- D-2 Case comments from Appellant's SNAP case record, from May 4 through June 2, 2015
- D-3 Letter from Department to Appellant dated June 3, 2015
- D-4 Letter from Department to Appellant dated July 7, 2015
- D-5 Second letter from Department to Appellant dated July 7, 2015

**Appellant's Exhibits:**

- A-1 Letter from Social Security Administration, Disability Determination Section, dated August 25, 2015
- A-2 Letter from [REDACTED], Licensed Professional Counselor, to Appellant's WV WORKS Family Support Specialist, dated January 28, 2015
- A-3 Probable Cause for Involuntary Hospitalization order from [REDACTED] County WV Circuit Court, dated June 16, 2015
- A-4 Interdisciplinary Progress Record/Behavioral Health Services from [REDACTED], indicating Appellant was hospitalized from June 16 through June 23, 2015

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 June 3, 2015, the Department issued to the Appellant a letter (Exhibit D-3) informing her that SNAP policy required her to register with Workforce WV within 30 days of the date her SNAP review/redetermination was approved. The letter read that the Appellant was required to register with Workforce WV by July 2, 2015. The letter continued that if the Appellant did not register by that date, but registered before the end of the month, she must notify her local DHHR office.
- 2) The June 3 letter (Exhibit D-2) stated that the Appellant had to contact her local DHHR office if she were unable to work. The letter read as follows:

Reasons for exemption from [the Workforce WV registration] requirement are as follows:

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

- 3) On July 7, 2015, the Department sent the Appellant another letter (Exhibit D-4), informing her that a SNAP work requirement penalty had been applied to her benefits for failure to register with Workforce WV. The letter informed her that she would remain ineligible for SNAP for six months or until she complied with the registration requirement, whichever is longer.
- 4) The Appellant requested a fair hearing based on the imposition of sanction or penalty for failing to register with Workforce WV.

## **APPLICABLE POLICY**

WV Income Maintenance Manual (IMM) Chapter 13, §13.5.A.1 reads as follows in part:

All mandatory individuals must register for employment with Workforce West Virginia within 30 days of the date of the original approval, unless exempt . . . Recipients must register every 12 months thereafter, regardless of the length of time that Workforce West Virginia considers the registration valid . . .

WV IMM Chapter 13, §13.2.A.2 reads as follows in part:

The following SNAP recipients are exempt from the SNAP work requirements and are not subject to a SNAP penalty for failure to comply:

. . .

- Individuals who are physically or mentally unfit to engage in full-time employment.
- Regular participants in a drug addiction or alcoholic treatment and rehabilitation program, either on a resident or non-resident basis.

WV IMM Chapter 13, §13.6.A.2 reads as follows in part:

A . . . recipient who refuses or fails to register with Workforce WV, 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. 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.

## **DISCUSSION**

SNAP policy required the Appellant to register with Workforce WV, unless she met certain exemptions, among which were an exemption for individuals who were physically or mentally unable to work and an exemption for individuals who were in a drug or alcohol addiction treatment program.

The Appellant testified that she had been hospitalized for mental health issues related to drug abuse from June 16 to June 23, 2015 (Exhibit A-4). She testified that since April 2015, she had been in a drug abuse treatment program mandated by the Child Protective Services (CPS) unit of the WV DHHR, [REDACTED] County office. She stated the drug treatment program involved regular drug screenings and other appointments with DHHR and other agency representatives. She submitted as evidence a letter from a counselor at [REDACTED], [REDACTED] Center (Exhibit A-2), to the effect that she had been a patient there since March 2014 and that the counselor did not feel she was able to work at that time. The Appellant testified that she had submitted this letter to her WV WORKS Family Support Specialist.

The Department's representative testified that the Department did not receive any information or documentation to indicate the Appellant was in a drug or alcohol rehabilitation program mandated by the DHHR CPS unit. She stated that the Income Maintenance unit of the DHHR did not have access to CPS documentation. The Department's representative did not testify regarding the letter from the [REDACTED].

The Appellant testified that she was participating in a drug abuse treatment program mandated by the WV DHHR, CPS unit. Although the Department's representative testified that the CPS unit does not share information with the Income Maintenance unit, it is not reasonable to expect that the Appellant knew this. Also, the Appellant testified that she submitted a letter from [REDACTED] to the WV WORKS unit of the DHHR, which should have been included in her case record. The Appellant met the exemption from registering with Workforce WV because she was in a drug or alcohol treatment program, and reasonably expected the Department to be aware of this.

### **CONCLUSION OF LAW**

The Appellant provided documentation to support her position that she met the drug or alcohol treatment program exemption to the SNAP requirement that she register with Workforce WV. The Department was not correct in its decision to apply a work registration sanction on the Appellant's SNAP benefits, pursuant to WV IMM §13.2.A.2.

### **DECISION**

It is the decision of the state Hearing Officer to **reverse** the Department's decision to penalize the Appellant's SNAP benefits for failure to register with Workforce WV.

**ENTERED this 30<sup>th</sup> Day of September, 2015.**

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**Stephen M. Baisden**  
**State Hearing Officer**