



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313**

**Earl Ray Tomblin
Governor**

**Karen L. Bowling
Cabinet Secretary**

October 20, 2015

[REDACTED]

RE: [REDACTED] v WV DHHR
BOR ACTION NO.: 15-BOR-3009

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,

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-3009

**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 convened on October 20, 2015, on an appeal filed September 8, 2015.

The matter before the Hearing Officer arises from the July 30, 2015 proposed decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits from, effective August 31, 2015.*

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

*The Appellant's SNAP benefits have been continued pending a hearing decision in this matter.

Department's Exhibits:

- D-1 Case Comments computer screen print, dated June 22, 2015 through July 29, 2015
- D-2 Notice of Decision from DHHR ██████████ County to the Appellant, dated June 23, 2015
- D-3 SNAP Work Requirement Penalty Request computer screen print, dated September 2015 through November 2015
- D-4 Correspondence from DHHR ██████████ County to the Appellant, dated July 30, 2015
- D-5 Notice of Decision from DHHR ██████████ County to the Appellant, dated July 30, 2015
- D-6 West Virginia Income Maintenance Manual Policy §13.6.2 (excerpt)
- D-7 WorkForce WV Registration computer screen print, dated September 9, 2015

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 June 23, 2015, the Department issued to the Appellant notice informing her that she was required to register with WorkForce West Virginia (Workforce) by July 22, 2015. (Exhibit D-2)
- 2) The June 23, 2015 notice indicated that the Appellant was required to contact the local DHHR office if she were unable to work. The notice included an outline of specific reasons she could be exempt from the registration requirements. (Exhibit D-2)
- 3) On July 29, 2015, a Department worker completed a review of the Appellant's file and confirmed with electronic data received from Workforce that the Appellant had failed to register with Workforce. (Exhibit D-1)
- 4) On July 30, 2015, the Department issued notice to the Appellant that because she had failed to register with Workforce, SNAP benefits were terminated for a period of three (3) months due to a work requirement penalty. The letter notified the Appellant that the sanction would remain for a period of three (3) months or until she complied with the registration requirement, whichever was longer. (Exhibits D-4 and D-5)
- 5) On September 8, 2015, the Appellant registered with Workforce. (Exhibit D-7)

APPLICABLE POLICY

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 for 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.

DISCUSSION

The Appellant acknowledged that she did not register with Workforce before the deadline date of July 22, 2015, or prior to the implementation of the sanction scheduled to begin September 1, 2015. She testified that she did not receive the June 23, 2015 correspondence notifying her that she was required to register with Workforce. The Appellant reported that she was not able to speak to a worker regarding the sanction until September 8, 2015, at which time she registered. The Appellant confirmed that the mailing address listed on the June 23, 2015 notice was correct, but added that she had been having some difficulty with the local post office delivering her mail, including correspondence from the Department and her attorney.

The Department mailed all correspondence to the address the Appellant reported as being the correct mailing address. The Appellant did not notify the Department that she was having trouble with the postal service or provide any proof that her mail was not being delivered prior to the hearing in this matter. The Department did not indicate that any mail sent to the Appellant had been returned as undeliverable.

CONCLUSIONS OF LAW

- 1) Evidence submitted in this case reveals that the Appellant failed to verify that she registered with WorkForce West Virginia, or that she met an exemption from the registration requirement, on or before September 1, 2015, as required by policy.
- 2) Pursuant to policy contained in WV IMM §13.6, the Appellant is subject to a three (3) month SNAP penalty.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the proposal of the Department to impose a work requirement penalty on the Appellant for failure to register with Workforce. The penalty shall begin effective December 2015 and to continue for a period of three (3) months, through February 2016.

ENTERED this ____ day of October 2015.

Donna L. Toler
State Hearing Officer