



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

March 22, 2016

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-1304

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Emily Shumate, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 16-BOR-1304

**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 March 17, 2016, on an appeal filed February 16, 2016.

The matter before the Hearing Officer arises from the December 15, 2015, decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Emily Shumate, Economic Service Worker. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████, the Appellant's husband. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits

- D-1 Department's Summary
- D-2 Hearing Request Notification
- D-3 Scheduling Order
- D-4 WorkForce West Virginia Registration Request Letter dated November 13, 2015
- D-5 Notices of Work Requirement Penalty dated December 15, 2015
- D-6 Case Comments from December 2015-February 2016
- D-7 WorkForce West Virginia Registration Verifications dated January 6, 2016
- D-8 School/Work Excuse dated February 8, 2016
- D-9 West Virginia Income Maintenance Manual §13.6 (excerpt)

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) The Department issued a WorkForce West Virginia Registration letter (D-4 and D-5) on November 13, 2015, requesting that the Appellant and her husband, [REDACTED], register with job service by December 12, 2015.
- 2) The Department imposed a penalty (D-6) against the Appellant and Mr. [REDACTED] on December 15, 2015, when it was verified that they had not registered with job service. This was a first offense for the Appellant and a second offense for Mr. [REDACTED].
- 3) The Appellant's SNAP benefits were reduced from \$913 to \$620 monthly as result of the work registration penalties, effective January 1, 2016.
- 4) The Appellant and Mr. [REDACTED] registered (D-7) with WorkForce West Virginia on January 6, 2016.
- 5) A School/Work Excuse (D-8) was submitted on February 8, 2016, exempting the Appellant from school/work from December 15, 2015 through December 30, 2015.

APPLICABLE POLICY

West Virginia Income Maintenance Manual §13.2(A)(2) states that individuals are required to register with WorkForce West Virginia as a condition of eligibility for SNAP benefits unless one of the following exemptions is met.

- A person under age 16.
- A person age 16 or 17 who is not the SNAP payee or eRAPIDS primary person.
- A person age 16 or 17 who is attending school or enrolled in an employment training program on at least a half-time basis.
- A person enrolled at least half-time in any recognized school, recognized training program, or institution of higher education.
- A person age 60 or over.
- A parent, or other member of the Assistance Group (AG) who has the responsibility for the care of a child under the age of 6, or of an incapacitated and/or disabled individual.
- Individuals receiving Unemployment Compensation Income, as a result of registering with WorkForce West Virginia.
- 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.

- 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.
- 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.

West Virginia Income Maintenance Manual §13.6(A)(2) states that an individual who fails to register with WorkForce West Virginia 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 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.
- 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.
- 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.

DISCUSSION

The Appellants testified that their son died in December 2015 and they had to travel to Massachusetts for his funeral. Mr. [REDACTED] purported that they had registered with job service previously online and thought their registrations were active. When they returned to West Virginia after their son's funeral, they discovered that the job service registrations had not been completed and their SNAP benefits reduced. Mr. [REDACTED] stated they immediately went to the WorkForce West Virginia office and registered in-person.

The Appellants contended that they have always complied with SNAP requirements and are grieving the death of their son. They asked for a reinstatement of benefits due to the extenuating circumstances.

The Appellants did not meet any of the exemptions as set forth in policy to alleviate them from the requirement to register with job service.

CONCLUSIONS OF LAW

- 1) The Appellants failed to register with WorkForce West Virginia prior to the imposition of the penalty and once applied, the penalty cannot be removed.
- 2) The Appellants did not meet any of the exemptions from this requirement as found in policy.
- 3) The Department was correct to impose a penalty against the Appellants for their failure to register with job service.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Department's decision to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

ENTERED this 22nd day of March 2016

Kristi Logan
State Hearing Officer