



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
2699 Park Avenue, Suite 100
Huntington, WV 25704

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

July 28, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 16-BOR-2252

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Sheri Ranson, Department Representative

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

████████████████████

Appellant,

v.

Action Number: 16-BOR-2252

**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 July 28, 2016, on an appeal filed June 16, 2016.

The matter before the Hearing Officer arises from the Respondent's June 15, 2016 decision to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Sheri Ranson. Testifying as a witness for the Respondent was ██████████. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of work registration requirement, dated April 15, 2016
- D-2 Notice of work requirement penalty, dated May 17, 2016
- D-3 Notice of SNAP termination (effective June 2016), dated June 15, 2016
- D-4 Case comments regarding the Appellant's SNAP case from the Respondent's data system, entry dates from April 14, 2016, through June 14, 2016
- D-5 Case comments regarding the Appellant's SNAP case from the Respondent's data system, entry dates from June 13, 2016, through June 16, 2016
- D-6 Excerpts from the West Virginia Income Maintenance Manual (WVIMM), Chapter 13.2 and Chapter 13.5

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 Appellant was a recipient of SNAP benefits.
- 2) The Appellant registered with WorkForce West Virginia on January 7, 2016.
- 3) The Respondent notified the Appellant that she must register with WorkForce West Virginia on April 15, 2016. (Exhibit D-1)
- 4) The Respondent notified the Appellant of a work requirement penalty for failure to register with WorkForce West Virginia on May 17, 2016. (Exhibit D-2)
- 5) This notification of the work requirement penalty (Exhibit D-2) reads in pertinent part, “You will receive another notice informing you of the change in the amount of your benefits or closure of your case, whichever applies.”
- 6) The Respondent notified the Appellant that her SNAP benefits would end on May 31, 2016, in a notice dated June 15, 2016. (Exhibit D-3)

APPLICABLE POLICY

The West Virginia Income Maintenance Manual (WVIMM), at §13.2, reads, “All SNAP recipients are subject to a work requirement, unless exempt.”

WVIMM, §13.2.A.1, notes that this requirement includes registration with WorkForce West Virginia, as detailed in §13.5.

WVIMM, §13.5.A.1, reads, “Once the client registers with WorkForce West Virginia for SNAP purposes, he cannot be required to register more often than every 12 months...”

WVIMM, §13.5.A.2, reads, “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.” The policy goes on to reiterate the statement, “The client is only required to register with WorkForce West Virginia every 12 months for SNAP purposes.”

WVIMM, §6.3.D.1, reads, “The adverse action requirement is that notification be mailed to the client at least 13 days prior to the first day of the month in which the benefits are affected.”

DISCUSSION

The Respondent terminated the Appellant's SNAP benefits for a work requirement penalty resulting from a failure to register with WorkForce West Virginia. The Appellant requested this hearing to contest the Respondent's action.

The Respondent must show, by a preponderance of the evidence, that the Appellant failed to register with WorkForce West Virginia and that the Respondent issued proper and timely notification prior to implementing any negative action stemming from this. The Respondent could not meet either requirement.

There was no dispute of the fact the Appellant registered with WorkForce West Virginia on January 7, 2016. According to the testimony from the Respondent's representative and witness, the action to terminate the Appellant's SNAP benefits was taken despite the fact the Appellant registered because of an unreliable data exchange between WorkForce West Virginia and the Respondent. The applicable policy asserts that this data exchange is reliable ("...eRAPIDS will present a registration date obtained from WorkForce West Virginia. If the client is not registered no date will be returned.") and indicates that this data exchange is the primary source of communication regarding registration. The Appellant was registered, the Respondent's data system gave incorrect information, and the Appellant "cannot be required to register more often than every 12 months." Even if the policy intent is for there to be a shared burden between the Respondent and the Appellant regarding the registration notification element, this is clearly negated by the strongly worded language regarding the twelve month window – e.g., "**only** required to register...every 12 months" from §13.5.A.2, and "**cannot** be required to register more often than every 12 months" from §13.5.A.1. (Emphasis added)

Additionally, the Respondent failed to fully notify the Appellant in advance of this negative action. There are two notices involved: the notification of the penalty itself, and the notification of how that penalty affected the Appellant's SNAP benefits. The latter notice was untimely. The Respondent took the action to close the Appellant's SNAP benefits at the end of May 2016. The Respondent notified the Appellant of this action on June 15, 2016.

The Respondent did not establish the facts necessary to support the termination of the Appellant's SNAP benefits, and did not fully notify the Appellant of this action as required by policy. Because SNAP benefits were not continued through the hearing process, corrective action will require retroactive benefits to the Appellant, beginning with June 2016.

CONCLUSION OF LAW

Because the Appellant met her work requirement and the Respondent failed to gather this information correctly via its established data exchange, the Respondent was not correct to terminate the Appellant's SNAP benefits.

DECISION

It is the decision of the State Hearing Officer to **reverse** the Respondent's termination of the Appellant's SNAP benefits. Retroactive SNAP benefits will be issued to the Appellant, beginning with the June 2016 issuance.

ENTERED this ____ Day of July 2016.

**Todd Thornton
State Hearing Officer**