



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Earl Ray Tomblin
Governor

Karen L. Bowling
Cabinet Secretary

December 21, 2016

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 16-BOR-3103

Dear [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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Christal Olack, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 16-BOR-3103

**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 December 20, 2016, on an appeal filed December 1, 2016.

The matter before the Hearing Officer arises from the September 30, 2016 decision by the Respondent to terminate Supplemental Nutrition Assistance Program (SNAP) benefits effective November 2016.

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

Department's Exhibits:

- D-1 Notice of Decision dated September 30, 2016, regarding work penalty
- D-2 Notice of Decision dated September 30, 2016, regarding SNAP termination
- D-3 Letter requesting WorkForce West Virginia/West Virginia Bureau of Employment Programs (BEP) registration

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 Supplemental Nutrition Assistance Program (SNAP) benefits and was notified by the Department on September 30, 2016 (D-1 and D-2) that her SNAP benefits would be terminated effective November 2016, based on her failure to register with WorkForce West Virginia/West Virginia Bureau of Employment Programs (BEP).
- 2) Christal Olack, Economic Service Worker with the Respondent, testified that the Respondent sent the Appellant a letter (D-3) advising her of the need to register with WorkForce West Virginia as a mandatory work program registrant for the SNAP. The letter indicated that the registration must be completed by September 25, 2016.
- 3) The Appellant failed to register by September 25, 2016, and was placed in a three-month SNAP sanction effective November 2016. ESW Olack testified that the Appellant completed the registration on October 18, 2016; however, the sanction could not be lifted because the Appellant did not provide the information to the Respondent prior to November 1, 2016, when the sanction went into effect.
- 4) The Appellant did not dispute the registration date, but indicated that she telephoned the DHHR Office to inform the worker that she registered prior to November 1, 2016. ESW Olack testified that she reviewed telephone/case records and could find no evidence that the information was provided by the Appellant before November 1, 2016.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 13.6.A.2 states that a non-WV WORKS recipient who refuses or fails to register with WorkForce West Virginia, 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. For a first violation, the individual is removed from the SNAP Assistance Group for at least three months or until he meets an exemption, whichever is later.

Chapter 13.5 of the Manual states that a recipient who fails to register by the established due date is subject to a SNAP penalty and the worker must send an adverse action notice. The penalty is not imposed and any lost benefits are restored if, before the end of the month in which the adverse notice expires, the following occurs:

- a. The client registers and
- b. The client notifies DHHR that he has registered. If the worker independently discovers before the penalty goes into effect that the client has registered before the end of the month in which the adverse notice expires, the penalty may be

lifted and benefits restored. There is no requirement on the Department, however, to attempt to independently verify if the client has registered after the date the penalty is entered into the system.

DISCUSSION

Individuals who are mandatory work registrants for the SNAP must register with WorkForce West Virginia. Policy states that a recipient who fails to register by the established due date is subject to a SNAP penalty and the worker must send an adverse action notice. The penalty is not imposed and any lost benefits are restored if, before the end of the month in which the adverse notice expires, the client registers and notifies DHHR that he/she has registered. If the worker independently discovers before the penalty goes into effect that the client has registered before the end of the month in which the adverse notice expires, the penalty may be lifted and benefits restored. There is no requirement on the Department, however, to attempt to independently verify if the client has registered after the date the penalty is entered into the system.

As the Respondent has no record that the Appellant contacted DHHR to inform the worker that she registered with WorkForce West Virginia in October 2016, the Respondent acted correctly in applying a three-month sanction to the Appellant's SNAP case.

CONCLUSION OF LAW

The Respondent acted correctly in terminating the Appellant's SNAP benefits effective November 2016.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Department's action to terminate SNAP benefits effective November 2016.

ENTERED this 21st Day of December 2016.

**Pamela L. Hinzman
State Hearing Officer**

