



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

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

March 29, 2017



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1360

Dear Mr. [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: Paula Adkins, WV DHHR, [REDACTED] County Office

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

██████████,

Appellant,

v.

ACTION NO.: 17-BOR-1360

**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 March 21, 2017, on an appeal filed February 27, 2017.

The matter before the Hearing Officer arises from the December 20, 2016 decision by the Respondent to apply a work requirement penalty, thereby closing the Appellant's receipt of Supplemental Nutrition Assistance Program (SNAP) benefits. This would be the Appellant's first work requirement penalty as a SNAP recipient.

At the hearing, the Respondent appeared by Representative Paula Adkins, Economic Service Worker. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Letter from Department to Appellant dated November 21, 2016
- D-2 Letter from Department to Appellant dated December 20, 2016

Appellant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, 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 November 21, 2016, the Department sent the Appellant a letter (Exhibit D-1) informing him that SNAP policy required him to register with WorkForce WV within 30 days of the date his SNAP review/redetermination was approved. The letter read that the Appellant was required to register with WorkForce WV by December 18, 2016.
- 2) The Appellant had not registered with WorkForce WV by December 20, 2016.
- 3) On December 20, 2016, the Department sent the Appellant another letter (Exhibit D-2), informing him that a SNAP work requirement penalty had been applied to his benefits for failure to register with WorkForce WV. The letter informed him that he would remain ineligible for SNAP for three months or until he complied with the registration requirement, whichever was longer.
- 4) The Department imposed a three-month work requirement penalty against the Appellant's receipt of SNAP benefits beginning February 1, 2017. He requested a fair hearing based on the imposition of a sanction for failing to register with WorkForce WV.

APPLICABLE POLICY

WV Income Maintenance Manual (WV 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 [SNAP] approval, unless exempt . . . A recipient who fails to register by the due date established . . . 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.

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 or she] meets an exemption, whichever is later. Second violation: the individual is removed from the [SNAP assistance group] for at least 6 months or until [he or she] meets an exemption, whichever is later.

DISCUSSION

Policy requires that SNAP applicants register with WorkForce WV within 30 days of benefit approval unless they meet an exemption. By letter dated November 21, 2016 (Exhibit D-1), the Department notified the Appellant that he needed to register by December 18, 2016, in order to comply with SNAP policy. He did not register.

The Department's representative testified that since December 18, 2016, was after the DHHR's Adverse Action Deadline, the date each month that is the last day in which action may be taken which decreases or discontinues a person's benefits, the sanction against the Appellant's receipt of SNAP benefits did not begin until February 1, 2017. However, she added, the DHHR computer network's interface with WorkForce WV's network indicated he did not register until February 10, 2017.

The Appellant testified that he went to the WV DHHR, [REDACTED] County office, on January 27, 2017, and was informed he needed to register with WorkForce WV by the end of the month. He testified that he called WorkForce WV's [REDACTED] County office, as per instruction from a worker at the [REDACTED] County DHHR, and completed his registration. He stated a worker asked him questions about his commercial driver's license and updated his telephone number, and then told him "That's all you have to do."

The Appellant testified that he called the [REDACTED] County DHHR as per policy to inform a worker he had registered. He stated he was told his registration was not showing on the DHHR – WorkForce WV interface as yet. He stated he called WorkForce WV back on or about February 10, 2017, but he called on January 30 or January 31 the first time.

The Department's representative testified that she had received reports of problems with registering at WorkForce WV's [REDACTED] County office before this. She stated that she had spoken with other WV DHHR customers who had called the [REDACTED] County WorkForce WV office to register, only to find out later that their registration had not been updated on the DHHR's computer network.

Policy at WV IMM Chapter 13, §13.5.A.1, dictates that someone may register with WorkForce WV "before the end of the month in which the adverse notice expires" if he or she calls the local DHHR office to let a worker there know he or she has registered. For the Appellant, since the sanction did not begin until February 1, 2017, the month in which the adverse notice expires is January 2017.

The Appellant testified he called WorkForce WV in January 2017, and believed his registration was complete, based on the fact that the WorkForce WV worker with whom he spoke assured him his information was updated. The Appellant further testified he called the DHHR back to let a worker know he had registered.

The Appellant fulfilled the policy requirement to register with WorkForce WV and to call the Department to inform a worker he had completed his registration. The Department was not correct to impose a sanction or penalty against his receipt of SNAP benefits.

CONCLUSION OF LAW

The Appellant called the [REDACTED] County WorkForce WV office to register with WorkForce WV by January 31, 2017. He spoke with a WorkForce WV worker, who told him his registration was updated. The Appellant fulfilled this policy requirement, found in WV IMM §13.5.A.1. The Department did not act correctly to impose a penalty against his receipt of SNAP benefits.

DECISION

It is the decision of the state Hearing Officer to **reverse** the Department's decision to apply a work requirement penalty, thereby closing the Appellant's receipt of SNAP benefits, for failure to register with WorkForce WV.

ENTERED this 29th Day of March, 2017.

Stephen M. Baisden
State Hearing Officer