



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

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

April 27, 2017



RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-1573

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,

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

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

cc: Misty Cork, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-1573

**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 April 26, 2017, on an appeal filed March 30, 2017.

The matter before the Hearing Officer arises from the February 14, 2017 decision by the Respondent to apply a work penalty to the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits effective March 2017.

At the hearing, the Respondent appeared by Misty Cork, Economic Services Supervisor, and Cindy Bell, 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 January 24, 2017
- D-2 Notice of Decision dated February 14, 2017

Appellant's Exhibits:

- A-1 Receipts from ██████████

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 applied for Supplemental Nutrition Assistance Program (SNAP) benefits in January 2017.
- 2) The Appellant had zero income at the time of application; therefore, she was approved for expedited SNAP benefits for January and February 2017.
- 3) The Appellant was a mandatory registrant with WorkForce West Virginia/West Virginia Bureau of Employment Programs (BEP), and the Respondent sent her a notice on January 24, 2017 (D-1), informing her of the need to register by February 9, 2017. The Appellant was also informed during the application process that she could provide a physician's statement to verify disability in lieu of the work registration.
- 4) The Appellant failed to register with WorkForce West Virginia/BEP - or provide a physician's statement - and was informed on February 14, 2017 that a three-month SNAP penalty would be placed on her benefits (D-2) .
- 5) The SNAP penalty was imposed for the months of March, April and May 2017.
- 6) The Appellant registered with WorkForce West Virginia/BEP on March 30, 2017, after the penalty period had begun.
- 7) The Appellant testified that she was unaware that her SNAP application had been approved, or that SNAP benefits had been placed on her Electronic Benefits Transfer (EBT) card. In addition, she had originally believed that registering for work programs would have a negative effect on her pending Social Security Disability application.
- 8) The Appellant provided Exhibit A-1 to demonstrate that she did not purchase groceries with her EBT card until March 2017 when she learned that her January 2017 SNAP application had been approved.

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.A.1 of the Manual states that all mandatory SNAP work registrants must register with WorkForce West Virginia every 12 months.

Chapter 12.15.C states that a physician's statement means a medical report from a licensed doctor. The statement must contain enough information to allow the worker to determine if the client's condition renders him unfit for employment.

Chapter 13.5.A.1 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

SNAP recipients who are mandatory work registrants must register with WorkForce West Virginia/BEP every 12 months. Mandatory work registrants who fail to register are subject to a SNAP penalty for at least three months or until they meet an exemption, whichever is later. A disability exemption can be established with a physician's statement.

The Appellant was required to register with WorkForce West Virginia/BEP by February 9, 2017, and did not complete the registration until March 2017 (after the penalty was imposed). In addition, she failed to provide a doctor's statement to verify disability. Therefore, the Respondent acted correctly in applying a work penalty to the Appellant's SNAP benefits.

CONCLUSION OF LAW

The Respondent acted correctly in applying a work penalty to the Appellant's SNAP benefits effective March 2017.

DECISION

It is the decision of the State Hearing Officer to UPHOLD the Respondent's action to apply a work penalty to SNAP benefits effective March 2017.

ENTERED this 27th Day of April 2017.

**Pamela L. Hinzman
State Hearing Officer**