



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

June 16, 2017



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1819

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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

cc: Carla Addair, Economic Service Supervisor

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

██████████,

Appellant,

v.

ACTION NO.: 17-BOR-1819

**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 June 1, 2017, on an appeal filed May 10, 2017.

The matter before the Hearing Officer arises from the April 4, 2017 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 Carla Addair, Economic Service Supervisor. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████. The participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Letter from Department to Appellant dated November 2, 2016
- D-2 Letter from Department to Appellant dated April 4, 2017
- D-3 Letter from Department to Appellant dated April 4, 2017
- D-4 West Virginia Income Maintenance Manual (WV IMM) Chapter 13, §13.2
- D-5 WV IMM Chapter 12, §12.5
- D-6 Discharge Order Sheet from ██████████, ██████████ WV, dated April 11, 2017
- D-7 Letter from ██████████, ██████████ WV, dated May 9, 2017

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 2, 2016, the Department sent the Appellant a letter (Exhibit D-1) informing her that SNAP policy required her to register with WorkForce WV within 30 days of the date her SNAP review/redetermination was approved. The letter read that the Appellant was required to register with WorkForce WV by December 1, 2016.
- 2) The Appellant had not registered with WorkForce WV by April 4, 2017.
- 3) On April 4, 2017, the Department sent the Appellant another letter (Exhibit D-2), informing her that a SNAP work requirement penalty had been applied to her benefits for failure to register with WorkForce WV. The letter informed her that she would remain ineligible for SNAP for three months or until she 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 May 1, 2017. She 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, §13.2.A.2 lists the exemptions to the SNAP policy requirement that recipients must register with WorkForce WV. They are as follows:

- A person under age 16;
- A person age 16 or 17 who is not the SNAP payee or primary person in the case;

- A person age 16 or 17 who is attending school enrolled in an employment training program on at least a half-time basis;
- A person enrolled at least half-time in any recognized school, training program or institution of higher learning;
- A person age 60 or older;
- A parent or other member of the SNAP assistance group who has the primary responsibility for the care of a child under the age of six, or of an incapacitated and/or disabled individual;
- A person who receives UCI (Unemployment Compensation Income);
- A person who is mentally or physically unfit to engage in full-time employment (this includes SSI recipients);
- A regular participant in a drug addiction or alcohol treatment and rehabilitation program;
- An individual who is employed or self-employed and is working a minimum of 30 hours per week or receiving weekly earnings equivalent to the federal minimum wage multiplied by 30 hours;
- An individual who receives WV WORKS cash assistance and does not meet any of the other SNAP exemptions listed above, so long as he or she is subject to and complying with a WV WORKS work requirement.

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 2, 2016 (Exhibit D-1), the Department notified the Appellant that she needed to register by December 1, 2016, in order to comply with SNAP policy.

The Appellant testified that she registered with WorkForce WV in December 2016. She stated that she forgot to call the WV DHHR, to inform a worker she had registered. She testified that when she received the April 4, 2017, letter informing her that her SNAP benefits would be sanctioned (Exhibit D-2), she was mentally unstable at that time. She stated she was hospitalized on April 11, 2017, and remained hospitalized for about one week.

The Appellant's witness testified that the Appellant lives with her, and they receive their mail at the same mailing address. She testified that the Appellant has many mental health issues, including comprehension issues at times, but she "does the best she can." The witness testified that while the Appellant was hospitalized, she did not receive any correspondence at the mailing address they share related to the Appellant's SNAP benefits. The witness added that the Appellant had a hearing with a Social Security Administration official on June 7, 2017, related to her application for Supplemental Security Insurance (SSI).

The Department's representative testified that she did not know the Appellant registered with WorkForce WV in December 2016. Policy in WV IMM §13.5.A.1 reads that if a SNAP recipient registers with WorkForce WV after the deadline but before the penalty is applied, the penalty will be withdrawn, provided the individual notifies the DHHR he or she has registered.

The Appellant testified that she asked her mental health professionals to send the WV DHHR a statement indicating she cannot work. She stated that a person at [REDACTED] sent to the WV DHHR a letter dated May 9, 2017 (Exhibit D-7) verifying her diagnosis and explaining that she could not keep or schedule an appointment before May 1, 2017, "because she became emotionally unstable requiring voluntary hospitalization." The Department's representative pointed out that this statement cannot be used to exempt the Appellant from the SNAP requirement that she register with WorkForce WV, because it does not specify she cannot work. The Appellant testified that she told the person from [REDACTED] she needed a statement saying she could not work, but the [REDACTED] employee did not write such a statement.

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 May 1, 2017, the month in which the adverse notice expired would have been April 2017.

The Appellant testified that she registered with WorkForce WV in December 2016, but that she did not inform the WV DHHR, [REDACTED] County office that she had done so. Because the Department delayed in informing her a sanction would be applied to her SNAP benefits until April 2017, during which month she was hospitalized due to emotional instability, she did not know she could have informed the DHHR in April that she had registered in order to avoid the penalty. Because she did not receive proper notice that she could have informed the DHHR in April she had registered in order to avoid the penalty, the Department was not correct to impose a sanction or penalty against her receipt of SNAP benefits.

CONCLUSION OF LAW

The Appellant was not properly informed that she could have called the WV DHHR in April 2017 in order to inform a worker she had registered with WorkForce WV, pursuant to WV IMM §13.5.A.1(b). The Department did not act correctly to impose a penalty against her 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 16th Day of June, 2017.

Stephen M. Baisden
State Hearing Officer