



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 West Washington Street
Charleston, WV 25313

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

June 14, 2017



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1841

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,

Natasha Jemerison
State Hearing Officer
Member, State Board of Review

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

cc: Tera Pendleton, ESW

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

██████████,

Appellant,

v.

Action Number: 17-BOR-1841

**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 June 8, 2017, on an appeal filed May 15, 2017.

The matter before the Hearing Officer arises from the April 18, 2017 decision by the Respondent to impose a work registration penalty against the Appellant and subsequent reduction in Supplemental Nutrition Assistance Program (SNAP) benefits.

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

Department's Exhibits:

- D-1 Case Comments, computer screen print, dated April 2017 through May 2017
- D-2 Notice of Work Registration Requirement, dated March 20, 2017
- D-3 SNAP Work Requirement Penalty Summary, computer screen print
- D-4 Notice of Work Registration Penalty, dated April 18, 2017
- D-5 Notice of Decision, dated April 18, 2017
- D-6 SNAP Budget, computer screen prints
- D-7 Case Benefit Summary, computer screen print
- D-8 West Virginia Income Maintenance Manual §§13.5, and 13.6

Appellant's Exhibits:

None

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.
- 2) On March 20, 2017, the Department notified the Appellant that she was required to register with WorkForce West Virginia (WorkForce) by April 16, 2017, or present an exemption from work requirements, to continue receiving SNAP benefits. (D-2)
- 3) On April 18, 2017, the Department notified the Appellant that a SNAP penalty was applied to her case for failure to register with WorkForce by the due date. (D-4)
- 4) The Appellant's monthly allotment of SNAP benefits was reduced from \$166.00 to \$20.00 effective May 1, 2017, as a result of the penalty. (D-5)
- 5) This is the Appellant's third SNAP work registration penalty. (D-3)
- 6) The Appellant registered with WorkForce on May 15, 2017, after the due date and effective penalty date. (D-3)

APPLICABLE POLICY

West Virginia Income Maintenance Manual §13.5(A)(1) states all mandatory individuals must register for employment with WorkForce West Virginia, within 30 days of the date of the original approval, unless exempt according to Section 13.2. Recipients must register every 12 months thereafter, regardless of the length of time that WorkForce West Virginia considers the registration valid.

West Virginia Income Maintenance Manual §13.2(A)(2) states that individuals are required to register with WorkForce West Virginia as a condition of eligibility for SNAP benefits unless one of the following exemptions is met.

- A person under age 16.
- A person age 16 or 17 who is not the SNAP payee or eRAPIDS primary person.

- A person age 16 or 17 who is attending school or enrolled in an employment training program on at least a half-time basis.
- A person enrolled at least half-time in any recognized school, recognized training program, or institution of higher education.
- A person age 60 or over.
- A parent, or other member of the AG who has the responsibility for the care of a child under the age of 6, or of an incapacitated and/or disabled individual.
- Individuals receiving Unemployment Compensation Income, as a result of registering with WorkForce West Virginia.
- Individuals who are physically or mentally unfit to engage in full-time employment.
- Regular participants in a drug addiction or alcoholic treatment and rehabilitation program, either on a resident or non-resident basis.
- Individuals who are employed or self-employed and working a minimum of 30 hours per week, or receiving weekly earnings equal to the federal minimum wage multiplied by 30 hours.
- Individuals who receive WV WORKS and do not meet any of the other SNAP exemptions listed above, so long as they are subject to and complying with a WV WORKS work requirement.

West Virginia Income Maintenance Manual §13.6(A)(2) states that an individual who fails to register with WorkForce West Virginia 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 AG for at least 3 months or until he meets an exemption, whichever is later. If after 3 months, the individual has not complied or met an exemption, the penalty continues until the failure or refusal stops, or until the individual reports a change that makes him exempt.
- Second violation: The individual is removed from the AG for at least an additional 6 months or until he meets an exemption, whichever is later. If after the 6 months, the individual has not complied or met an exemption, the penalty continues until the failure or refusal ceases, or until the individual reports a change that makes him exempt.
- Third and subsequent violations: The individual is removed from the AG for at least an additional 12 months or until he meets an exemption, whichever is later. If after the 12 months, the individual has not complied or met an exemption, the penalty continues until the failure or refusal ceases, or until the individual reports a change that makes him exempt.

West Virginia Income Maintenance Manual §12.15(C) states that to determine disability or incapacity for an exemption from work requirements for SNAP, the recipient must present a physician's statement and that statement must contain enough information to allow the Worker to determine if the client's condition renders him unfit for employment. If the physician makes a definite statement that the client is permanently and totally disabled, no further information is

needed. Usually, however, the physician describes the situation, and the Worker must make the determination. In these situations, the statement must contain:

- The type of condition, including the diagnosis if known;
- Any unusual limitations the condition imposes on the client's lifestyle; and
- The length of time the condition is expected to last.

Once the necessary information is received, the Worker makes the determination of unfitness for employment based upon whether the condition imposes limitations on the client's normal way of life to qualify him as unfit for employment.

DISCUSSION

Effective May 1, 2017, a work registration penalty was placed against the Appellant's receipt of SNAP benefits. As a result, she was removed from the SNAP AG, because she failed to register with WorkForce by the required due date. The Appellant requested a hearing to contest the Department's action and policy.

Policy explains that an individual must register with WorkForce as a condition of eligibility to receive SNAP benefits, unless an exemption is met. Recipients must register every 12 months thereafter, regardless of the length of time that WorkForce West Virginia considers the registration valid.

The Appellant testified that she has been registered with WorkForce for ten (10) years. She stated that when required, she called WorkForce to update her information. She stated that she does not agree that she should be required to register every 12 months, as stated in policy. The Appellant admitted that she did not comply with the WorkForce registration requirement until May 15, 2017, which was after the registration due date. The Appellant added that she takes care of her husband and child, who both have health conditions, so she should not be required to register with WorkForce.

The Department's representative stated that the Appellant was provided timely notification of the WorkForce registration requirement. She added that this is the Appellant's third penalty for failure to register.

Evidence and testimony provided at the hearing was clear that the Appellant failed to register with WorkForce by the required due date. Also, the Appellant did not provide evidence to show she met an exemption from registration requirements. The Department was correct in its decision to place a SNAP work registration penalty on the Appellant.

CONCLUSIONS OF LAW

- 1) The Appellant was required by policy to register with WorkForce to continue receiving SNAP benefits.

- 2) A penalty was correctly imposed to the Appellant's SNAP benefits when she failed to register with WorkForce by the deadline established by the Department.
- 3) The Appellant will be excluded from participation in SNAP for twelve (12) months as this is her third penalty.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Department to impose a work registration penalty against the Appellant and subsequently reduce her monthly allotment of SNAP benefits.

ENTERED this 14th day of June 2017

**Natasha Jemerison
State Hearing Officer**