



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
1400 Virginia Street
Oak Hill, WV 25901

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

June 28, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-1964

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Sharon Pannell, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-1964

**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 ██████████. II. 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 27, 2017, on an appeal filed June 9, 2017.

The matter before the Hearing Officer arises from the May 1, 2017, decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

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

Department's Exhibits:

- D-1 Department's Summary
- D-2 Hearing Request Notification
- D-3 Scheduling Order dated June 13, 2017
- D-4 WorkForce West Virginia Registration Letter dated March 29, 2017
- D-5 Notice of Decision dated May 1, 2017
- D-6 Notice of Work Requirement Penalty dated May 1, 2017
- D-7 Case Comments from April 2017-June 2017
- D-8 West Virginia Income Maintenance Manual §13.5

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) The Respondent notified the Appellant by letter on March 29, 2017, that he was required to register with WorkForce West Virginia (WorkForce) by April 27, 2017, to continue receiving SNAP benefits (Exhibit D-4).
- 3) By letter dated March 29, 2017, the Appellant was advised that he must register by the end of the month in which the registration is due and notify the Respondent; otherwise, a penalty will be applied to his SNAP benefits (Exhibit D-4).
- 4) A work requirement penalty was imposed against the Appellant on April 28, 2017, when he failed to register with WorkForce (Exhibit D-6).
- 5) The Appellant's SNAP benefits were terminated effective May 31, 2017, as he is the only member of his SNAP assistance group (Exhibit D-5).
- 6) The Appellant reported to the local office on June 5, 2017, that he had registered with WorkForce on May 23, 2017 (Exhibit D-7).
- 7) This is the Appellant's first SNAP penalty.

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.

A recipient who fails to register by the due date established on the DFA-6 or verification checklist 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:

- The client registers and
- 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 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 of the penalty is entered.

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.

DISCUSSION

Pursuant to policy an individual must register with WorkForce yearly as a condition of eligibility to receive SNAP benefits, unless an exemption is met.

If an individual fails to register with WorkForce by the due date listed on the verification request letter, but registration is completed prior to the effective date of the SNAP penalty and the Respondent is notified of the registration, the penalty may be removed.

The Appellant was notified that he was required to register with WorkForce by April 27, 2017. A SNAP penalty was imposed against the Appellant when he failed to register, effective June 1, 2017. The Appellant registered with WorkForce subsequent to the imposition of the SNAP penalty but he failed to notify the Respondent until after the penalty went into effect.

Once the SNAP penalty was imposed, it was the Appellant's responsibility to notify the Respondent of his completed WorkForce registration prior to the effective date of the penalty.

The Appellant did not notify the Respondent that he completed his WorkForce registration prior to the effective date of the SNAP penalty, therefore the penalty cannot be removed.

CONCLUSIONS OF LAW

- 1) SNAP recipients must register with WorkForce West Virginia yearly to receive SNAP benefits.
- 2) A penalty was applied to the Appellant's SNAP benefits when he failed to register with WorkForce West Virginia by the deadline established by the Respondent.
- 3) The Appellant registered with WorkForce West Virginia subsequent to the imposition of the SNAP penalty, but did not report the registration until after the penalty went into effect.
- 4) The Appellant will be excluded from participation in SNAP for the minimum penalty period of three (3) months as this is his first offense.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

ENTERED this 28th day of June 2017

**Kristi Logan
State Hearing Officer**