



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Jim Justice
Governor**

**BOARD OF REVIEW
Raleigh District DHHR
407 Neville Street
Beckley, WV 25801**

**Bill J. Crouch
Cabinet Secretary**

September 5, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2278

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,

Kristi Logan
State Hearing Officer
Member, State Board of Review

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

cc: Beverly Ballengee, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-2278

**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 August 31, 2017, on an appeal filed August 8, 2017.

The matter before the Hearing Officer arises from the July 14, 2017, decision by the Respondent to reduce the Appellant's monthly Supplemental Nutrition Assistance Program (SNAP) allotment.

At the hearing, the Respondent appeared by Beverly Ballengee, Family Support Supervisor. 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 July 14, 2017, and Notice of Work Requirement Penalty dated July 14, 2017
- D-2 Hearing Request received August 8, 2017
- D-3 Hearing Request Notification
- D-4 Board of Review Scheduling Order dated August 15, 2017
- D-5 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 for herself and two (2) other members of her household.
- 2) The Respondent notified [REDACTED], a member of the Appellant's household and SNAP assistance group, by letter on June 13, 2017, that she was required to register with WorkForce WV (WorkForce) to continue receiving SNAP benefits.
- 3) A work requirement penalty was imposed against Ms. [REDACTED] on July 13, 2017, when she failed to register with WorkForce (Exhibit D-1).
- 4) The Appellant's monthly SNAP allotment was reduced from \$496 to \$342, effective August 1, 2017 (Exhibit D-1).
- 5) Ms. [REDACTED] registered with WorkForce on July 18, 2017.
- 6) The Appellant reported to the Respondent that Ms. [REDACTED] had registered with WorkForce on August 8, 2017.
- 7) This is Ms. [REDACTED] second work requirement penalty (Exhibit D-1).

APPLICABLE POLICY

West Virginia Income Maintenance Manual §13.5(A)(1) states all mandatory individuals must register for employment with WorkForce, 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 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 the adverse notice expires, the penalty may be lifted and benefits restored. There is no requirement on the Department to attempt to independently verify if the client has registered after the date the penalty is entered into the system.

West Virginia Income Maintenance Manual §13.6(A)(2) states that an individual who fails to register with WorkForce 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 [assistance group] for at least 3 months or until he or she 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 or her exempt.

- Second violation: The individual is removed from the AG for at least an additional 6 months or until he or she 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 or her exempt.
- Third and subsequent violations: The individual is removed from the AG for at least an additional 12 months or until he or she 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 or her 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. A recipient who fails to register by the due date established by the Respondent is subject to a SNAP penalty and notice of adverse action is sent. The penalty is not imposed if, before the end of the month in which the adverse notice expires, the client registers and notifies the Respondent that he or she has registered.

██████████ was notified that she was required to register with WorkForce. The Respondent imposed a penalty against Ms. ██████████ on July 13, 2017, when she had not registered, effective August 1, 2017. Ms. ██████████ registered with WorkForce on July 18, 2017, subsequent to the imposition of the penalty, but prior to the effective date of the SNAP reduction.

The Appellant contended that she spoke with a receptionist with the Respondent several times in July 2017, and advised that individual of Ms. ██████████ registration. The Appellant admitted that when she was transferred to speak with a caseworker, she did not leave a voice mail message. The Appellant testified that she thought the Respondent could verify Ms. ██████████ registration through its computer system, so she did not think she had to report the registration.

Once a work registration penalty is imposed, it is the responsibility of the recipient to report a WorkForce registration prior to the effective date of the penalty or the penalty cannot be removed. Whereas the Appellant failed to report registration with WorkForce prior to the effective date of the SNAP penalty, the Respondent correctly reduced the Appellant's benefits.

CONCLUSIONS OF LAW

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

- 2) A penalty was applied to Ms. [REDACTED] when she failed to register with WorkForce by the deadline established by the Respondent.
- 3) Ms. [REDACTED] registered with WorkForce after the imposition of the penalty, but did not report the registration until after the effective date of the penalty.
- 4) Ms. [REDACTED] must serve the minimum penalty period of six months as this is her second offense.

DECISION

It is the decision of the State Hearing Officer to **uphold** the decision of the Respondent to reduce the Appellant's monthly Supplemental Nutrition Assistance Program allotment.

ENTERED this 5th day of September 2017

**Kristi Logan
State Hearing Officer**