



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 19, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2288

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: Heather Keffer, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-2288

**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 September 13, 2017, on an appeal filed August 21, 2017.

The matter before the Hearing Officer arises from the August 14, 2017, decision by the Respondent to deny the Appellant's application for Supplemental Nutrition Assistance Program (SNAP) benefits.

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

Department's Exhibits:

- D-1 WorkForce West Virginia Registration Letter dated January 17, 2017
- D-2 Notice of Decision dated March 17, 2017
- D-3 Application for Emergency Assistance dated January 13, 2017
- D-4 Case Comments from December 2016 through March 2017
- D-5 Electronic Benefit Transfer (EBT) Transaction History for January 2017 through March 2017
- D-6 Notice of Decision dated August 14, 2017

Appellant's Exhibits:

- A-1 Official Certificate of Discharge dated June 2, 2017
- A-2 Final Disposition Report and WV Division of Corrections Inmate Time Sheet

A-3 Envelopes for Correspondence from Bureau for Child Support Enforcement sent to Appellant

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 SNAP benefits.
- 2) The Appellant applied for Emergency Assistance benefits on January 13, 2017 (D-3).
- 3) The Appellant's caseworker noted that a work registration penalty had been applied to the Appellant incorrectly as notice of the registration requirement had not been issued (D-4).
- 4) The penalty was removed and the work registration letter was issued to the Appellant requiring that the Appellant register with WorkForce West Virginia by February 12, 2017 (D-1).
- 5) A penalty imposed against the Appellant on March 16, 2017, terminating her SNAP benefits, when she failed to register with WorkForce West Virginia (D-2).
- 6) The Appellant has two (2) previous work registration penalties.
- 7) The Appellant reapplied for SNAP benefits on August 11, 2017.
- 8) The Appellant reported that she was arrested on January 26, 2017, and was incarcerated until July 27, 2017 (A-2).
- 9) The Respondent spoke with someone in booking at the [REDACTED] Jail, who reported that the Appellant was convicted of a drug felony on October 12, 2016.
- 10) The Appellant's August 11, 2017, SNAP application was denied due to the Appellant's status as a convicted drug felon, and a penalty for failure to register with WorkForce West Virginia (D-6).

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 §13.6(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 §9.1(A)(2)(g) states an individual who has been convicted of a felony offense which occurred after August 22, 1996, which involved an element of the possession, use or distribution of a controlled substance as defined by section 802(6) of the Controlled Substance Act is permanently disqualified from participation in SNAP.

DISCUSSION

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

The Appellant was sent notice on January 17, 2017, that she was required to register with WorkForce West Virginia by February 22, 2017, or a penalty would be applied. The Appellant contended that she did not receive the letter requesting that she register, and was arrested shortly thereafter.

The Respondent contended that the Appellant was in the local office on January 13, 2017, to apply for benefits, and would have received verbal notification of the registration requirement, in addition to the letter that was mailed on January 17, 2017.

Case comments from January 14, 2017, document that the work registration letter was re-issued, but did not indicate that the Appellant was verbally notified of the registration requirement. Furthermore, the work registration letter was not mailed until January 17, 2017, and would not

have been delivered to the Appellant prior to her date of incarceration. The work registration penalty was improperly imposed against the Appellant.

The Appellant provided the Final Disposition Report from her incarceration showing the offense charged in the arrest as Fraud in Connection with an Access Device. The Appellant does not dispute that she was arrested in October 2016 for distribution of a controlled substance, but argues that she has not been convicted of the charge to date.

Based on the information provided, the Appellant served time for an offense that does not involve an element of the possession, use or distribution of a controlled substance. The Respondent does not have documentation of a felony conviction for the Appellant related to a controlled substance and cannot exclude the Appellant from participation in SNAP as a convicted drug felon.

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 she failed to register with WorkForce West Virginia by the deadline established by the Respondent.
- 3) A preponderance of evidence indicated that the Appellant did not receive notice of the WorkForce West Virginia requirement, therefore a penalty should not have been applied.
- 4) Pursuant to policy, an individual convicted of a felony offense related to the possession, use or distribution of a controlled substance is permanently disqualified from SNAP.
- 5) The Appellant was convicted of Fraud in Connection with an Access Device for which she was incarcerated.
- 6) The Appellant has not been convicted of a felony offense involving a controlled substance, and was incorrectly denied SNAP on this basis.

DECISION

It is the decision of the State Hearing Officer to **reverse** the decision of the Respondent to deny the Appellant's application for Supplemental Nutrition Assistance Program benefits.

ENTERED this 19th day of September 2017

**Kristi Logan
State Hearing Officer**