



State of West Virginia  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
Office of Inspector General  
Board of Review  
1027 N. Randolph Ave.  
Elkins, WV 26241

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

September 14, 2017

[REDACTED]

RE: [REDACTED] v. WVDHHR  
ACTION NO.: 17-BOR-2295

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,

Pamela L. Hinzman  
State Hearing Officer  
Member, State Board of Review

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

cc: Darlene Smith, WVDHHR

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

██████████,

**Appellant,**

v.

**Action Number: 17-BOR-2295**

**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 7, 2017, on an appeal filed August 14, 2017.

The matter before the Hearing Officer arises from the August 3, 2017 decision by the Respondent to decrease Supplemental Nutrition Assistance Program (SNAP) benefits effective September 2017 due to the imposition of a work penalty.

At the hearing, the Respondent appeared by Darlene Smith, Economic Services Supervisor, WVDHHR. 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 3, 2017 and Client Notices Summary
- D-2 Notice of Decision dated August 3, 2017
- D-3 Notice of Decision dated August 3, 2017
- D-4 Case Comments
- D-5 West Virginia Income Maintenance Manual Policy Chapters 13.2 and 13.6

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 and was notified by the Respondent on August 3, 2017 (D-2 and D-3) that his SNAP benefits would be reduced effective September 2017 based on his failure to register with WorkForce West Virginia/West Virginia Bureau of Employment Programs (BEP).
- 2) The penalty was imposed after the Respondent sent the Appellant a letter on July 3, 2017 (D-1), advising him of the need to register with WorkForce West Virginia as a mandatory work program registrant for the SNAP. The letter indicated that the registration must be completed by July 30, 2017.
- 3) The Respondent contends that the Appellant failed to register by July 30, 2017, and he was placed in a three-month SNAP sanction effective September 2017.
- 4) The Appellant testified that his niece helped him to register three times online with WorkForce West Virginia/BEP in July 2017; however, the registration did not “go through.” The Appellant contacted the Respondent’s office about the issue, and the Economic Services Supervisor attempted to call him back and verify the registration on July 27, 2017, July 28, 2017, and July 31, 2017. However, she testified that she could not reach the Appellant and was not given an option to leave a message.
- 5) The Appellant stated that he had attempted to call the Respondent’s office several additional times about the registration, but the calls would not connect. The Economic Services Supervisor confirmed that the county office had been experiencing telephone system problems that may have prevented the Respondent’s calls from being received.
- 6) The Respondent has since verified that the Appellant’s WorkForce registration date was August 7, 2017.

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual Chapter 13.6.A.2 (D-5) states that a non-WV WORKS recipient who refuses or fails to register with WorkForce West Virginia, 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. For a first violation, the individual is removed from the SNAP Assistance Group for at least three months or until he meets an exemption, whichever is later.

Chapter 13.5.A.1 of the Manual states that a recipient who fails to register by the established due date 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. 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, however, to attempt to independently verify if the client has registered after the date the penalty is entered into the system.

### **DISCUSSION**

Individuals who are mandatory work registrants for the SNAP must register with WorkForce West Virginia. Policy states that a recipient who fails to register by the established due date 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 client registers and notifies DHHR that he/she 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, however, to attempt to independently verify if the client has registered after the date the penalty is entered into the system.

The Appellant provided credible testimony that he attempted to register online with WorkForce West Virginia in late July 2017, but the registration did not “go through.” He notified the Respondent that he had attempted to register, and the Economic Services Supervisor made attempts to verify the registration. However, the registration did not appear in the Respondent’s computer system prior to August 2017.

The Appellant testified that he made several other attempts to contact the Respondent’s office concerning the registration, but his calls were unsuccessful. The Respondent’s representative acknowledged that the Department’s telephone system was not working properly during this time.

The Respondent has since confirmed that the Appellant’s registration was recorded on August 7, 2017. Since the Appellant registered before the month in which the adverse action notice expired – August 2017 – and testified that he attempted unsuccessfully to contact the Respondent about the issue, the Respondent’s decision to apply a work penalty cannot be affirmed.

### **CONCLUSION OF LAW**

The Respondent’s action to apply a work penalty to the Appellant’s SNAP benefits cannot be affirmed.

**DECISION**

It is the decision of the State Hearing Officer to REVERSE the Department's action to apply a work penalty to the Appellant's SNAP benefits effective September 2017.

ENTERED this 14th Day of September 2017.

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**Pamela L. Hinzman**  
**State Hearing Officer**