



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 6, 2017



RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2309

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: Bettie Paul, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-2309

**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 5, 2017, on an appeal filed August 15, 2017.

The matter before the Hearing Officer arises from the June 27, 2017, decision by the Respondent to reduce the Appellant's monthly Supplemental Nutrition Assistance Program (SNAP) allotment.

At the hearing, the Respondent appeared by Bettie Paul, 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 Case Comments from May 2017 through August 2017
- D-2 WorkForce WV Registration Details Screen Prints
- D-3 WorkForce WV Registration Request dated June 1, 2017
- D-4 Notice of Work Requirement Penalty dated June 27, 2017
- D-5 Notice of Decision dated June 27, 2017

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 her son.
- 2) The Respondent notified the Appellant by letter on June 1, 2017, that she was required to register with WorkForce WV (WorkForce) by June 23, 2017, to continue receiving SNAP benefits (Exhibit D-3).
- 3) A work requirement penalty was imposed against the Appellant on June 26, 2017, when she failed to register with WorkForce (Exhibit D-4).
- 4) The Appellant's monthly SNAP allotment was reduced from \$357 to \$194, effective August 1, 2017 (Exhibit D-5).
- 5) The Appellant registered with WorkForce on July 28, 2017 (Exhibit D-2).
- 6) The Appellant contacted her caseworker in August 2017, advising that she had registered with WorkForce and reported the registration in July 2017 (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.

The Appellant was required to register with WorkForce by June 23, 2017. A penalty was applied to the Appellant when she had not registered, and notice was sent advising that her SNAP benefits would be reduced effective August 1, 2017. The Appellant registered with WorkForce on July 28, 2017.

The Appellant contended that she came to the local office on July 31, 2017, to turn in information for her grandmother's case, and reported her WorkForce registration at the same time. The Appellant testified that the receptionist asked that she write her name, social security number, and a statement attesting to her WorkForce registration on a blank sheet of paper and was told the statement would be given to her caseworker.

The Respondent countered that no such statement had been located. However, the Respondent confirmed that a Medicaid review form for the Appellant's grandmother had been submitted on July 31, 2017.

Based on the credible testimony provided by the Appellant, and the fact that a review form had been submitted for the Appellant's grandmother the date she insists she visited the local office and reported her WorkForce registration, the preponderance of evidence indicates that the Appellant reported her registration prior to the end of the month in which the adverse notice expired.

A work registration penalty was incorrectly imposed against the Appellant, and SNAP benefits reduced improperly.

CONCLUSIONS OF LAW

- 1) The Appellant was required by policy to register with WorkForce to continue receiving SNAP benefits.
- 2) A penalty was applied to the Appellant when she failed to register with WorkForce by the deadline established by the Respondent.
- 3) The Appellant registered with WorkForce after the imposition of the penalty.
- 4) The Appellant reported the registration prior to the effective date of the penalty.
- 5) A work requirement penalty was imposed against the Appellant in error.

DECISION

It is the decision of the State Hearing Officer to **reverse** the decision of the Respondent to impose a work registration penalty against the Appellant and subsequent reduction in her Supplemental Nutrition Assistance Program benefits.

ENTERED this 6th day of September 2017

**Kristi Logan
State Hearing Officer**