



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
203 East Third Avenue
Williamson, WV 25661

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

November 13, 2017

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 17-BOR-2539

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,

Stephen M. Baisden
State Hearing Officer
Member, State Board of Review

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

cc: Tera Pendleton, WV DHHR, [REDACTED] Office

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

██████████,

Appellant,

v.

ACTION NO.: 17-BOR-2539

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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on October 11, 2017, on an appeal filed September 22, 2017.

The matter before the Hearing Officer arises from the August 1, 2017 decision by the Respondent to apply a work requirement penalty, thereby reducing the Appellant's monthly allotment of Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker. The Appellant appeared *pro se*. The participants were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case comments from Appellant's SNAP case record, dated July 3 to September 22, 2017
- D-2 Letter from Department to Appellant dated June 30, 2017
- D-3 Letter from Department to Appellant dated August 1, 2017
- D-4 Second letter from Department to Appellant dated August 1, 2017
- D-5 WV IMM Chapter 13, §13.5
- D-6 WV IMM Chapter 13, §13.6

Appellant's Exhibits:

None

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence, 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) On June 30, 2017, the Department sent the Appellant a letter (Exhibit D-2) informing him that SNAP policy required him to register with WorkForce WV within 30 days of the date his SNAP review/redetermination was approved. The letter read that the Appellant was required to register with WorkForce WV by July 29, 2017.
- 2) On July 31, 2017, the Department received an “alert” or an automated message from the WV DHHR’s computerized case management network, known as RAPIDS, indicating the Appellant was listed with Workforce WV, but was inactive. A Department worker entered a case recording in the Appellant’s case record stating that he or she was entering a sanction or penalty against the Appellant’s receipt of SNAP benefits (Exhibit D-1).
- 3) On August 1, 2017, the Department sent the Appellant another letter (Exhibit D-3), informing him that a SNAP work requirement penalty had been applied to his benefits for failure to register with WorkForce WV. The letter informed him that he would remain ineligible for SNAP for twelve months or until he complied with the registration requirement, whichever was longer.
- 4) The Department imposed a sanction or penalty against the Appellant’s receipt of SNAP benefits beginning September 1, 2017 (Exhibit D-4).
- 5) On September 15, 2017, the Appellant came to the WV DHHR, [REDACTED] County office, to report that he had registered with Workforce WV (Exhibit D-1). Because he reported registering with Workforce WV after the date the sanction was scheduled to begin, September 1, 2017, the sanction remained in effect.
- 6) The Appellant requested a fair hearing based on the imposition of a sanction for failing to register with WorkForce WV.

APPLICABLE POLICY

WV Income Maintenance Manual (WV IMM) Chapter 13, §13.5.A.1 reads as follows, in part:

All mandatory individuals must register for employment with WorkForce West Virginia within 30 days of the date of the original [SNAP] approval, unless exempt . . . A recipient who fails to register by the due date established . . . 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.

WV IMM Chapter 13, §13.6.A.2 reads as follows, in part:

[A] recipient who refuses or fails to register with WorkForce WV, 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 or she] reports a change which makes [him or her] exempt from the work requirements. First violation: the individual is removed from the [SNAP assistance group] for at least 3 months or until [he or she] meets an exemption, whichever is later. Second violation: the individual is removed from the [SNAP assistance group] for at least 6 months or until [he or she] meets an exemption, whichever is later.

DISCUSSION

Policy requires that SNAP recipients register with WorkForce WV once per year. By letter dated June 30, 2017 (Exhibit D-2), the Department notified the Appellant that he needed to register by July 29, 2017, in order to comply with SNAP policy.

The June 30 letter to the Appellant informing him he needed to register (Exhibit D-2) reads as follows regarding registering after the July 29 deadline: “If you do not register by this date, but prior to the end of the month in which the registration is due, you must notify the local office.”

The Department’s representative testified that a worker at the WV DHHR, [REDACTED] County office, determined the Appellant had not registered with Workforce WV, and sent him a letter dated August 1, 2017 (Exhibit D-3), informing him that a sanction or penalty would be applied to his household’s receipt of SNAP benefits. The Department sent the Appellant a second letter on August 1, 2017 (Exhibit D-4), informing him that the sanction would take effect on September 1, 2017. The Department’s representative stated that if the Appellant had registered with WorkForce WV and called to inform the Economic Service unit of the WV DHHR, [REDACTED] County Office, of his registration any time before September 1, 2017, the Department would have lifted the sanction. The Department’s representative added that the Appellant did register with WorkForce WV, but not until September 15, 2017.

The Appellant testified that he registered with Workforce WV in March 2017. He stated that if he had to register once per year, he should not have to register before March 2018.

The Department did not submit as evidence the computer screen print from RAPIDS that that displays the actual registration date or the absence of a registration date. Also, the Department did not submit a computer screen print from the Workforce WV computer system which would show the last date of registration for the Appellant. Because the Department did not provide a

preponderance of evidence to show that the Appellant had not registered with Workforce WV before September 1, 2017, the Department did not act correctly to impose a sanction or penalty against the Appellant's receipt of SNAP benefits.

CONCLUSION OF LAW

The Department did not provide a preponderance of evidence to establish that the Appellant failed to register with Workforce WV before September 1, 2017, pursuant to WV IMM §§13.5.A.1(a) and 13.6.A.2. The Department did not act correctly to impose a penalty against the Appellant's receipt of SNAP benefits.

DECISION

It is the decision of the state Hearing Officer to **reverse** the Department's decision to apply a SNAP work requirement penalty against the Appellant, thereby reducing his household's monthly receipt of SNAP benefits, for failure to register with WorkForce WV.

ENTERED this 13th Day of November, 2017.

Stephen M. Baisden
State Hearing Officer