

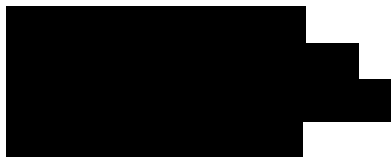


State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
1027 N. Randolph Ave.
Elkins, WV 26241

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

November 10, 2017



RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-2620

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,

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

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

Cc Tera Pendleton, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 17-BOR-2620

**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 November 2, 2017, on an appeal filed October 4, 2017.

The matter before the Hearing Officer arises from the August 1, 2017 decision by the Respondent to terminate Supplemental Nutrition Assistance Program (SNAP) benefits effective September 2017.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker, WVDHHR. Also appearing on behalf of the Respondent were Elijah Harper, Economic Services Supervisor; Elizabeth Elswick, Economic Service Worker; and Dollie Bailey, Economic Service Worker. The Appellant was present and was represented by ██████████, Paralegal, Legal Aid of West Virginia. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case Comments from Respondent's computer system
- D-2 Supplemental Nutrition Assistance Program (SNAP) application received by Respondent on June 5, 2017, with pay stubs
- D-3 Notice of Decision dated June 13, 2017
- D-4 Documentation from Appellant received by Respondent on June 27, 2017
- D-5 Notice of Decision dated June 29, 2017
- D-6 SNAP Work Requirement Penalty Summary and Request
- D-7 Notice of Decision dated August 1, 2017
- D-8 Notice of Decision dated August 1, 2017

- D-9 Documentation from Appellant received by Respondent on August 21, 2017
- D-10 Employment Income information from Respondent's computer system
- D-11 Documentation from Appellant received by Respondent on September 22, 2017
- D-12 Case Benefit Summary
- D-13 West Virginia Income Maintenance Manual Policy Chapter 13.5
- D-14 West Virginia Income Maintenance Manual Policy Chapter 13.6

Appellant's Exhibits:

- A-1 West Virginia Income Maintenance Manual Policy Chapter 13.6
- A-2 7 U.S. Code Section 2015
- A-3 7 CFR 273.24
- A-4 West Virginia Income Maintenance Manual Policy Chapter 13.2
- A-5 West Virginia Income Maintenance Manual Policy Chapter 12.15
- A-6 West Virginia Supreme Court Decision No. 12-0775
- A-7 Case Comments from Respondent's computer system
- A-8 Notice of Decision dated June 13, 2017
- A-9 Notice of Decision dated June 13, 2017
- A-10 Notice of Decision dated June 29, 2017
- A-11 WorkForce West Virginia login information
- A-12 WorkForce West Virginia Activity for [REDACTED]
- A-13 WorkForce West Virginia Job Referrals information for [REDACTED]
- A-14 WorkForce West Virginia Contact Information for [REDACTED]

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 applied for Supplemental Nutrition Assistance Program (SNAP) benefits in June 2017 and received expedited benefits.
- 2) The Appellant was notified on June 13, 2017 (D-3), that she was required to register with WorkForce West Virginia/West Virginia Bureau of Employment Programs (BEP) by July 10, 2017.
- 3) The Appellant provided a written statement to the Respondent on June 27, 2017 (D-4), reporting that she had registered with WorkForce West Virginia in June 2017. In addition, the Appellant, who is employed as a substitute teacher, provided information from [REDACTED] County Schools indicating that school would resume on August 14, 2017 for teachers. The Appellant provided no verification of her WorkForce West Virginia registration. The worker attempted to verify the Appellant's registration via computer link, but could find no verification that the Appellant had registered in the past 12 months.

- 4) On June 29, 2017, the Respondent sent a second letter (D-5) to the Appellant, requesting that both she and her husband, [REDACTED], register with WorkForce West Virginia by July 28, 2017.
- 5) On August 1, 2017, the Respondent sent the Appellant letters (D-7 and D-8), indicating that both she and her husband would be placed in work sanctions effective September 2017 because the WorkForce West Virginia registrations had not been received. Case Comments (D-1) indicate that the Respondent's worker again checked the WorkForce West Virginia computer link, and the link showed no registration had occurred in the past 12 months.
- 6) On August 21, 2017, the Appellant provided a second written statement (D-9) to the Respondent, again indicating that she had registered with WorkForce West Virginia in June 2017.
- 7) On September 22, 2017, the Appellant sent a third written statement to the Respondent (D-11), stating that she had been able to update her job preferences with WorkForce West Virginia during the previous week. She also provided documentation concerning her husband's medical condition. Case comments (D-1) state that the worker again checked the computer link with WorkForce and could not verify the registration.
- 8) Economic Service Worker Elizabeth Elswick testified that she did not attempt to contact WorkForce West Virginia to verify that the Appellant had registered. She indicated that she would not have adequate time to confirm registrations for all individuals who are referred to WorkForce West Virginia.
- 9) The Appellant testified that she attempted to register with WorkForce online, and received a message that she was already registered. She then remembered a password for her previous WorkForce account and clicked on all tabs, believing that she was registered. Exhibit A-12 reveals that the Appellant received a job referral from WorkForce on August 18, 2017.
- 10) The Respondent conceded during the hearing that [REDACTED] is medically unable to work. Tera Pendleton, Respondent's representative, testified that Mr. [REDACTED] sanction will be lifted and he will be issued retroactive SNAP benefits.
- 11) The Appellant's representative, [REDACTED], Legal Aid of West Virginia, motioned that the case be dismissed based on court findings in Exhibit A-6. Ms. [REDACTED] motion was based on her late receipt of the Appellant's case file.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter 13.6.A.2 (D-14) 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 (3) months or until he meets an exemption, whichever is later.

Chapter 13.5.A.1 of the Manual (D-13) 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.

Chapter 1.2.D of the Manual states that it is the worker's responsibility to assist the client in obtaining information required to establish eligibility. When the worker must make a collateral contact, such as an employer, the worker must not disclose the client's status as an applicant/recipient of a Department program.

DISCUSSION

Individuals who are mandatory work registrants for the SNAP must register with WorkForce West Virginia/BEP. 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. It is the worker's responsibility to assist the client in obtaining information required to establish eligibility.

The Appellant sent three separate letters and made telephone calls during the period of June 2017 through September 2017 to inform the Respondent that she had completed her WorkForce West Virginia registration. While the Respondent's data link with WorkForce continued to indicate that the Appellant was not registered, the Appellant's multiple assertions that she had completed the registration should have prompted concerns with the Respondent about the discrepancy. The Appellant provided verification during the hearing that she received a job referral from WorkForce in August 2017. She therefore, would have had no reason to believe that her WorkForce registration was unsuccessful. Although the Respondent's workers handle a large volume of income maintenance cases, it was the Respondent's responsibility to assist the Appellant in obtaining information to establish eligibility due to the discrepancy in information between the Appellant and WorkForce.

Based on information provided during the hearing, the Respondent's action to place a work penalty on the Appellant's SNAP benefits cannot be affirmed.

CONCLUSION OF LAW

The Respondent acted incorrectly in terminating the Appellant's SNAP benefits effective September 2017.

DECISION

It is the decision of the State Hearing Officer to REVERSE the Respondent's action to terminate SNAP benefits effective September 2017. The Appellant's motion to dismiss the case will not be addressed as reversal of the SNAP termination renders the motion moot.

ENTERED this 10th Day of November 2017.

Pamela L. Hinzman
State Hearing Officer