



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL  
BOARD OF REVIEW  
2699 Park Avenue, Suite 100  
Huntington, WV 25704

Jim Justice  
Governor

Bill J. Crouch  
Cabinet Secretary

January 27, 2017

[REDACTED]  
[REDACTED]  
[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 16-BOR-2994

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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

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

cc: Bryce Legg, Department Representative

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

██████████,

**Appellant,**

v.

**Action Number: 16-BOR-2994**

**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 December 1, 2016, then continued and reconvened on December 20, 2016, on an appeal filed November 10, 2016.

The matter before the Hearing Officer arises from the Respondent's October 19, 2016 decision to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Bryce Legg. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was his wife, ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 Notice of work registration requirement, dated September 8, 2016
- D-2 Notice of work requirement penalty, dated October 19, 2016
- D-3 Notice of SNAP reduction, dated October 19, 2016
- D-4 Screen print of WorkForce WV Registration details regarding the Appellant from the Respondent's data system
- D-5 West Virginia Income Maintenance Manual (WVIMM), §13.2
- D-6 WVIMM, §13.5
- D-7 WVIMM, §13.6

- D-8 Screen print of the Individual SNAP Work Requirement Penalty Request details for the Appellant from the Respondent's data system, penalty begin month September 2012
- D-9 Screen print of the Individual SNAP Work Requirement Penalty Request details for the Appellant from the Respondent's data system, penalty begin month November 2016
- D-10 Screen print of the Individual SNAP Work Requirement Penalty Summary for the Appellant from the Respondent's data system

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 Respondent notified the Appellant on September 8, 2016 (Exhibit D-1) that he must register with WorkForce West Virginia by October 7, 2016.
- 3) This notice (Exhibit D-1) also states "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."
- 4) The Appellant registered with WorkForce West Virginia on November 2, 2016. (Exhibit D-4)
- 5) The Respondent notified the Appellant on October 19, 2016, that a SNAP work requirement penalty was applied to him. (Exhibit D-2)
- 6) The Respondent also notified the Appellant on October 19, 2016, of the resulting termination of SNAP benefits from this penalty. (Exhibit D-3)
- 7) The penalty notice (Exhibit D-2) indicates a second violation with a corresponding six month exclusion from the SNAP assistance group (AG) for the Appellant. (Exhibit D-2)
- 8) The Appellant was granted good cause for a prior work requirement penalty. (Exhibit D-8)
- 9) The Appellant's current work requirement penalty counts as a first violation because good cause was granted for the prior penalty.
- 10) An override in the Respondent's data system was performed to correctly count the Appellant's current penalty as a first violation with a corresponding three month exclusion from the SNAP AG for the Appellant. (Exhibit D-9)

## **APPLICABLE POLICY**

The West Virginia Income Maintenance Manual (WVIMM), at §13.2, reads, “All SNAP recipients are subject to a work requirement, unless exempt.”

WVIMM, §13.2.A.1, specifies the SNAP work requirements as follows, “Registration with WorkForce West Virginia. Details are in Section 13.5. Failure of an individual to register within the time limits found in Section 13.5, and each 12 months results in application of a penalty for not meeting the work requirement.”

WVIMM, §13.6.A.2, specifies the penalties for failure to register with WorkForce West Virginia. A first violation results in at least a three-month removal of the individual from the SNAP assistance group, a second sanction results in at least a six-month removal of the individual, and a third or subsequent sanction results in at least a twelve-month removal of the individual. All of the penalties require their respective minimum sanctions to be served before an exemption or compliance with the work requirement can reestablish SNAP eligibility.

## **DISCUSSION**

The Respondent reduced the Appellant’s SNAP benefits for a work requirement penalty resulting from his failure to register with WorkForce West Virginia. The Appellant requested this hearing to contest the Respondent’s action.

The Respondent must show by a preponderance of the evidence that the Appellant failed to register with WorkForce West Virginia by the required deadline. The Respondent clearly established this in the hearing.

There was no dispute of the fact the Appellant failed to register with WorkForce West Virginia by the required deadline. The Respondent notified the Appellant that he must register by October 7, 2016, or register by the end of October 2016 and notify the local office. The Appellant registered on November 2, 2016. Policy requires this type of SNAP sanction to be served prior to reestablishing eligibility through compliance or exemption.

The Appellant testified regarding the circumstances that contributed to his failure to meet the registration requirement. The Appellant testified that he had issues with transportation and family medical issues, and the limited schedule of the WorkForce West Virginia office site. The Respondent provided ample time for the Appellant to address these issues and register as required. The Appellant testified that he did not receive the notice from the Respondent because of problems with his mail. It is the Appellant’s responsibility to maintain a secure mailing address.

The Respondent was correct to remove the Appellant from his SNAP assistance group for failure to meet the work requirement. The Appellant’s case had an AG consisting of one person, so this action results in termination of his SNAP benefits.

The Respondent provided a notification letter to the Appellant with incorrect details about the sanction. However, the Respondent additionally provided documentation that the sanction is being counted correctly as a first violation with a three month removal from the SNAP AG.

### **CONCLUSIONS OF LAW**

- 1) Because the Appellant failed to register with WorkForce West Virginia by the required deadline, the Respondent must apply a first-violation SNAP work requirement penalty to him.
- 2) Because the penalty is a first violation, the Respondent must terminate the Appellant's SNAP benefits by removing him from the SNAP assistance group for at least three months.

### **DECISION**

It is the decision of the State Hearing Officer to **uphold** the Respondent's termination of the Appellant's SNAP benefits.

**ENTERED this \_\_\_\_ Day of January 2017.**

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**Todd Thornton  
State Hearing Officer**