



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL**

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
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Charleston, West Virginia 25313
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**Jolynn Marra
Interim Inspector General**

September 06, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:18-BOR-2056

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,

Danielle C. Jarrett
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29
cc: Tera Pendleton, Department Representative

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

██████████,

Appellant,

v.

Action Number: 18-BOR-2056

**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 August 28, 2018, on an appeal filed July 17, 2018.

The matter before the Hearing Officer arises from the May 18, 2018 decision by the Respondent to establish a work requirement penalty and thereby discontinue the Appellant's receipt of Supplemental Nutrition Assistance Program (SNAP) benefits for three (3) months or until compliance.

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

Department's Exhibits:

- D-1 Case comment recordings from Appellant's case record, dated March 27, 2018 through July 17, 2018
- D-2 Notice of Decision, dated April 17, 2018
- D-3 SNAP Work Requirement Penalty Summary, dated June 04, 2018
- D-4 Notice of Decision, dated May 18, 2018
- D-5 SNAP Closure Notice, dated May 18, 2018
- D-6 WorkForce West Virginia (WV) Registration and SNAP Work Requirement Penalty Request screen print from the Appellant's case record, dated June 04, 2018
- D-7 West Virginia Income Maintenance Manual (WV IMM) § 14.3.1.B
- D-8 West Virginia Income Maintenance Manual (WV IMM) § 14.5.1.B

Appellant's Exhibits:
NONE

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.
- 2) On April 17, 2018, the Respondent sent the Appellant a notice of decision informing her that she is required to register with WorkForce West Virginia (WorkForce WV) within thirty (30) days of the date her SNAP review/redetermination was approved. The notice read that the date of her registration deadline was May 16, 2018. (Exhibit D-2)
- 3) On May 18, 2018, the Respondent issued the Appellant a second notice of decision informing her that a SNAP work requirement penalty had been applied to her benefits for failing to register with WorkForce WV. The notice informed her that she would remain ineligible for SNAP benefits for a period of three (3) months or until she complied with the registration requirement, whichever was longer. (Exhibit D-4)
- 4) The Respondent imposed a three (3) month work requirement penalty against the Appellant's receipt of SNAP benefits beginning June 01, 2018. (Exhibit D-3)
- 5) The Appellant's SNAP benefits were terminated effective June 01, 2018.
- 6) The Appellant is the only member of her SNAP Assistance Group (AG).
- 7) The Appellant completed WorkForce WV registration requirements on June 04, 2018. (Exhibit D-6)
- 8) This is the Appellant's first violation of the WorkForce WV requirement.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) § 14.3.1.A requires that all individuals must register for employment with WorkForce WV, within thirty (30) days of the date of the original approval. Individuals must register every twelve (12) months thereafter, regardless of the length of time that WorkForce WV considers the registration valid. The worker must enter the appropriate information in the eligibility system at any point during the certification period when the client is due to register with WorkForce WV. The eligibility system uses this information to send the client the notice to register thirty (30) days prior to the due date. A client who fails to

comply by the due date established on the notice to register 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 adverse notice expires, the following occurs: the client registers with WorkForce WV the individual notifies the Department of Health and Human Resources (DHHR) that he or she has registered. If the worker discovers the registration before the penalty goes into effect that the client has registered before the end of the month which the adverse action expires, the penalty may be lifted and benefits restored.

WV IMM § 14.5.1.B explains that an individual who refuses or fails to register with WorkForce WV, refuses employment, or refuses to provide information about employment status or job availability is subject to the following penalties for the full penalty period or until he or she reports a change which makes him or her exempt from the work requirements. In the first violation, the individual is removed from the SNAP Assistance Group (AG) for at least three (3) months or until she meets an exemption, which is later. For a second violation, the individual is removed from the SNAP AG for at least six (6) months or until he meets an exemption, whichever is later. And for the third and subsequent violations, the individual is removed from the AG for twelve (12) months or until she meets an exemption.

DISCUSSION

Policy requires that SNAP recipients register for employment with WorkForce WV within thirty (30) days of benefit application or redetermination approval, unless they met an exemption. By notice of decision dated April 17, 2018, the Respondent notified the Appellant that she needed to register by May 16, 2018, in order to comply with SNAP policy. WorkForce WV is an employment referral service operated by the WV Bureau of Employment Programs (WV BEP).

The April 17, 2018 notice reads as follows regarding an individual who registers after the registration deadline but before the sanction begins: "If you do not register by this date [May 16, 2018], but prior to the end of the month in which the registration is due, you must notify the local office."

The Respondent testified that as of May 18, 2018, the Respondent had not received notification the Appellant had registered with WorkForce WV. On May 18, 2018, the Respondent sent a notice of decision, informing the Appellant that a three-month sanction was imposed against her receipt of SNAP benefits. A second notice, also dated for May 18, 2018, informed that the sanction was scheduled to begin June 01, 2018. The Respondent added that since the sanction did not begin until June 01, 2018, the Appellant could have registered by May 31, 2018, provided she called or otherwise contacted the Department to inform a worker that she had updated her registration.

The Appellant testified that she did not receive the notice informing her that she was required to register with WorkForce WV by May 16, 2018, until May 30, 2018. The Appellant stated that she did not ignore the notices, but that she did not have access to the notices until after May 30, 2018. The Appellant stated that she was at her mother's residence in [REDACTED] from April 3 or 4, 2018, and did not return to West Virginia (W.Va.) until May 30, 2018. The Appellant testified that within a week of returning to W.Va., and being informed she was required to register, she

completed her registration via computer. While the Respondent verified that the Appellant registered on June 04, 2018, the penalty could not be lifted since it was already in effect. The Appellant acknowledged that she registered late.

The Respondent proved by a preponderance of evidence that the Appellant failed to register with WorkForce WV prior to the May 30, 2018 deadline. Therefore, the Respondent acted correctly to impose a penalty against the Appellant's receipt of SNAP benefits.

CONCLUSIONS OF LAW

- 1) The Appellant was required to register with WorkForce WV by May 30, 2018. The Appellant registered with WorkForce WV on June 04, 2018.
- 2) Pursuant to WV DHHR policy found in WV IMM § 14.3.1.A, the Respondent acted correctly to impose a sanction against the Appellant's receipt of SNAP benefits, effective June 01, 2018.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to apply a first offense SNAP work requirement penalty to the Appellant, effective June 01, 2018.

ENTERED this _____ day of 2018.

Danielle C. Jarrett
State Hearing Officer