



**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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**Jolynn Marra  
Interim Inspector General**

October 29, 2018



RE: [REDACTED] v. WVDHHR  
ACTION NO.:18-BOR-2478

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,

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-2478**

**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 October 23, 2018, on an appeal filed September 28, 2018.

The matter before the Hearing Officer arises from the August 22, 2018 decision by the Respondent to apply a twelve (12) month work requirement penalty to the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits for failure to comply with the work requirement.

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 29, 2018 through September 4, 2018
- D-2 WorkForce West Virginia (WV) Registration, dated August 17, 2018
- D-3 Notice of Decision, dated July 19, 2018
- D-4 SNAP Work Requirement Penalty Summary screen print from the Appellant's case record, dated September 4, 2018
- D-5 Notice of Decision, dated August 22, 2018
- D-6 Notice of Decision, dated August 22, 2018
- D-7 WorkForce WV Registration and SNAP Work Requirement Penalty Request screen print, dated September 4, 2018
- D-8 Notice of Decision, dated September 5, 2018
- D-9 West Virginia Income Maintenance Manual (WV IMM) § 14.3.1.A through § 14.3.1.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 July 19, 2018, the Respondent mailed the Appellant a notice of decision informing him that he was required to register with WorkForce West Virginia (WorkForce WV) or meet an exemption. The notice read that the date of his registration deadline was August 17, 2018. (Exhibit D-3)
- 3) On August 22, 2018, the Respondent issued the Appellant a second notice of decision informing him that a SNAP work requirement penalty had been applied to his benefits for failing to register with WorkForce WV. The notice informed him that he would remain ineligible for SNAP benefits for a period of twelve (12) months or until he complied with the registration requirement or met an exemption, whichever was longer. (Exhibit D-5)
- 4) On September 4, 2018, the Respondent imposed a twelve (12) month work requirement penalty against the Appellant's receipt of SNAP benefits beginning October 1, 2018. (Exhibit D-4)
- 5) The Appellant's SNAP benefits decreased effective October 1, 2018. (Exhibits D-1 and D-6)
- 6) The Appellant is a member of two-person SNAP Assistance Group (AG).
- 7) The Appellant completed WorkForce WV registration requirements on September 4, 2018. (Exhibits D-1 and D-7)
- 8) On September 4, 2018, the Appellant contacted the Respondent and reported he had completed the registration for WorkForce WV. (Exhibit D-1)

## **APPLICABLE POLICY**

West Virginia Income Maintenance Manual (WV IMM) § 14.2.1.B reads a member of the AG who is responsible for the care of an incapacitated and/or disabled individual or a person age 60 or over is exempt from registration requirements with WorkForce WV.

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 § 14.3.1.B reads that during the application and determination process, the eligibility system will present a registration date obtained from WorkForce WV. If the client is not registered, no date will be returned. During the certification period, the worker may request the registration date through the eligibility system. When the client is due to re-register, he must show activity to fulfill this requirement. The date of the re-registration is the date of the last action with WorkForce WV or the due date of the re-registration, whichever is later.

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 he 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 he meets an exemption.

## **DISCUSSION**

Policy requires that SNAP recipients register with WorkForce WV within thirty (30) days of benefit application or redetermination approval, unless they meet an exemption. By notice of decision dated July 19, 2018, the Respondent notified the Appellant that he was required to register or meet an exemption by August 17, 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 July 19, 2018 notice instructed the Appellant that if he failed to register by the August 17, 2018 deadline, but prior to the sanction effective date, he must notify the local office.

On August 22, 2018, the Respondent mailed a notice of decision, informing the Appellant that a twelve-month sanction was imposed against his receipt of SNAP benefits. A second notice, also dated for August 22, 2018, informed him that the sanction was scheduled to begin October 1, 2018, and that SNAP benefit allotment was decreasing from \$228 to \$68 due to the Appellant's failure to register with WorkForce WV by the August 17, 2018 deadline. The Appellant is member of a two-person AG. The remaining \$68 allotment is for his sister, [REDACTED]. The Appellant's sister, [REDACTED] is not required to register with WorkForce WV because she receives Supplemental Security Income (SSI) due to incapacity.

The Appellant argued that he should not be required to register with WorkForce WV because he is over the age of 50 and because he is caring for his sister who is an incapacitated adult. The Appellant testified that over the years he has turned in five (5) or six (6) letters from his sister's physician verifying her ongoing need for care because she would never medically improve. The Appellant added that the letters could be obtained from his case record. The Appellant stated that his sister suffers from an intellectual disability and that he has been caring for her since their mother passed away ten (10) years ago. The Appellant testified that two (2) years ago he stopped providing the physician's verification because a worker told him it would be an easier process if he just went ahead and registered with WorkForce WV. The Appellant argued that the worker sent him on the wrong path by requiring him to register.

Per policy, individuals under the age of 60 must meet a work requirement or an exemption. The Respondent indicated that the Appellant is not exempt from the work requirement registration because he is not over the age of 60 and does not meet an exemption because he failed to turn in verification that his sister requires his care due to her disability. There was a speculation during the hearing that the Appellant may have confused the SNAP work requirements with the Able-Bodied Without Dependents (ABAWD) program which begins at age 50. The hearing and decision are based on the SNAP work requirement, not ABAWD registration requirements.

Policy requires benefits be restored when an individual completes the registration requirements and reports them to the local office prior to the implementation of a penalty. There was no dispute that the Appellant completed registration requirements and reported it to the Respondent on September 4, 2018, prior the implementation of the work requirement penalty. Therefore, the Respondent erred when it failed to restore SNAP benefits as required by policy.

### **CONCLUSIONS OF LAW**

- 1) The Appellant was required to comply with SNAP work requirements by either registering with WorkForce WV or meeting an exemption by August 17, 2018.

- 2) The Appellant was required to notify the local office if he failed to register with WorkForce WV or met an exemption after the August 17, 2018 deadline, but prior to adverse action which began October 1, 2018.
- 3) The Appellant failed to provide verification of an exemption from work requirements, therefore, an exemption cannot be established.
- 4) Because the Appellant completed registration requirements and reported it to the Respondent prior to the adverse action effective date, the Respondent was incorrect to impose a SNAP work requirement penalty.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to apply a third offense SNAP work requirement penalty to the Appellant, effective October 1, 2018, thereby reducing his household's monthly receipt of SNAP benefits. The penalty shall be lifted, and any benefits lost shall be restored.

**ENTERED this \_\_\_\_ day of 2018.**

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**Danielle C. Jarrett**  
**State Hearing Officer**