



**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**

November 13, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:18-BOR-2547

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: Darlene Smith, Department Representative

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

██████████,

Appellant,

v.

Action Number: 18-BOR-2547

**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 30, 2018, on an appeal filed October 3, 2018.

The matter before the Hearing Officer arises from the August 21, 2018 decision by the Respondent to apply a 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 Darlene Smith, Department Representative, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Closure, dated August 21, 2018
- D-2 Notice of Decision, dated August 21, 2018
- D-3 West Virginia Income Maintenance Manual (WV IMM) §§ 14.2 through 14.2.1.B; and 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) The Appellant is a member of a one-person Assistance Group (AG) for SNAP.
- 3) At the time of application, the Appellant utilized the local Department of Health and Human Resources (DHHR), P.O. Box 310, Elizabeth, WV, as his mailing address for correspondence with the Respondent.
- 4) The Appellant's physical address is [REDACTED].
- 5) At a time prior to August 17, 2018, the Respondent allegedly mailed notice to the Appellant's physical address informing him that he was required to register with WorkForce West Virginia (WorkForce WV) or meet an exemption prior to August 17, 2018.
- 6) On August 21, 2018, the Respondent issued the Appellant notices of decision informing him that a SNAP work requirement penalty had been applied to his benefits for failure to register with WorkForce WV. The notice informed him that he would remain ineligible for SNAP benefits for a period of three (3) months or until he complied with the registration requirement or met an exemption, whichever was longer. (Exhibits D-1 and D-2)
- 7) The August 21, 2018 notices were mailed to the Appellant's reported mailing address.
- 8) The Appellant's SNAP benefits terminated effective October 1, 2018. (Exhibit D-1)
- 9) The Appellant completed WorkForce WV registration requirements on October 3, 2018.

APPLICABLE POLICY

WV IMM § 14.2 reads all SNAP clients are subject to a work requirement unless exempt.

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 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 redetermination 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, whichever 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.

Sometime prior to August 17, 2018, the Respondent testified that notice was sent to the Appellant informing him he was required to register with WorkForce WV. The Respondent further testified that the notice was mailed to the Appellant's physical address and not the local DHHR office as requested by the Appellant.

On August 21, 2018, the Respondent mailed notices of decision to the Appellant's mailing address, informing the Appellant that a three (3) month sanction was imposed against his receipt of SNAP benefits and that his benefits would be terminated effective October 1, 2018, for failure to register with WorkForce WV.

The Appellant contended that he did not receive notice that he must register with WorkForce WV. The Respondent failed to provide a copy of the notice that was allegedly sent to the Appellant requiring him to register as evidence. It is unknown if the notice was sent timely or the contents of the notice. Based on the testimony of the Respondent, the notice was mailed to the Appellant's physical address and not the address he requested that notices be sent. Because of this, testimony from the Appellant that he did not receive notice to register is credible. It should be noted that the August 21, 2018 notices were correctly mailed to the Appellant's mailing address.

On October 3, 2018, the Appellant was present at the local DHHR office regarding his SNAP Electronic Benefit Transfer (EBT) card. At that time, he was informed that he was required to

register with WorkForce WV. While in the office, a Department worker assisted the Appellant with completing registration requirements via a telephone call with WorkForce WV.

Per policy, the Respondent is required to send notice giving the Appellant thirty (30) days to register prior to the due date. Because notice to register was not mailed to the Appellant at the appropriate address, he did not receive proper notice 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.
- 2) The Respondent was required to send notice to the Appellant thirty (30) days prior to the deadline.
- 3) Per policy, because notice was mailed to an improper address, the Appellant did not receive required notification to comply with work requirements.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to apply a SNAP work requirement penalty to the Appellant, effective October 1, 2018, thereby terminating 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.

Danielle C. Jarrett
State Hearing Officer