



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

**Jim Justice
Governor**

**BOARD OF REVIEW
416 Adams St.
Suite 307
Fairmont, WV 26554
304-368-4420 ext. 79326**

**Bill J. Crouch
Cabinet Secretary**

January 16, 2018

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 17-BOR-2948

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 Board of Review is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources (DHHR). 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 that may be taken if you disagree with the decision reached in this matter.

Sincerely,

Tara B. Thompson
State Hearing Officer
State Board of Review

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

cc: David Griffin, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 17-BOR-2948

**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 January 10, 2018, on an appeal filed December 8, 2017.

The matter before the Hearing Officer arises from the December 4, 2017 decision by the Department to deny Supplemental Nutrition Assistance Program (SNAP) eligibility due to failure to register with WorkForce West Virginia (WV).

At the hearing, the Respondent appeared by David Griffin, Economic Service Supervisor. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- D-1 Notice of Decision, dated September 12, 2017; Notice of Decision, dated October 13, 2017
- D-2 Notice of SNAP termination, dated October 13, 2017
- D-3 Notice of Eligibility Denial, dated December 4, 2017

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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant applied for SNAP benefits. On December 4, 2017, the Respondent issued a notice advising the Appellant that his application for SNAP benefits had been denied due to the Appellant's failure to register with WorkForce WV. (Exhibit D-3)
- 2) On September 12, 2017, the Respondent issued a notice advising the Appellant to register with WorkForce WV and notify the Respondent of registration by October 11, 2017. The notice advised that if he registered after October 11, 2017, but prior to the end of the month in which registration was due, he must notify the Respondent. (Exhibit D-1)
- 3) The Appellant failed to register or meet an exemption prior to the established deadline.
- 4) On October 13, 2017, the Respondent issued notices advising the Appellant that his third penalty for failure to register with the Bureau of Employment Programs (BEP) was being applied to his SNAP benefits, effective November 1, 2017, and that he would remain ineligible for SNAP benefits for twelve (12) months or until compliance with the work requirement, whichever was longer. (Exhibits D-1 and D-2)
- 5) Since the December 4, 2017 denial, the Appellant advised the Respondent that he should be exempted from the work requirement due to medical disability but has not provided proper verification of the exemption. Prior to the hearing, the Respondent mailed a disability statement to the Appellant for his physician to complete.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (October 2017) (WVIMM) §7.3 Verification Requirements provides in part:

- #71. WorkForce West Virginia (WV) registration for the Supplemental Nutrition Assistance Program (SNAP) must be verified when the individual is required to register and does not meet an exemption as listed in Section §14.2. Information may be verified from the WorkForce WV Registration screen.

WVIMM (October 2017) §14.2.1. B Exceptions from SNAP Work Requirements provides in part:

The following SNAP clients are exempt from the SNAP work requirements and are not subject to a SNAP penalty for failure to comply: ...

- Individuals who are physically or mentally unfit to engage in full-time employment. See Section 13.15...

WVIMM (October 2017) §14.3.1. A SNAP Work Registration:

All individuals must register for employment with WorkForce WV, within 30 days of the date of the original approval, unless exempt according to Section 14.2. Client must register every 12 months thereafter, regardless of the length of time that WorkForce WV considers the registration valid...

The client may register by visiting a WorkForce WV office, or by registering online. [Emphasis added] The worker must explain these requirements to the client and enter the registration date in the eligibility system. 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 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 the adverse notice expires, the following occurs:

- The client registers and;
- The client notifies the Department of Health and Human Resources (DHHR) that he has registered...

WVIMM (October 2017) §14.3.1. B WorkForce WV provides in part:

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. The client is required to register with WorkForce WV every 12 months for SNAP purposes.

WVIMM (October 2017) §14.5 SNAP Work Requirement Penalties provides in part:

A SNAP penalty is imposed when clients do not comply with a work requirement and do not have good cause... When determining the correct number of penalties,

the Worker must look at the total number of penalties previously served, not just the number of penalties for each work requirement. The penalty must be served unless the client meets an exemption. [Emphasis added] ...

WVIMM (October 2017) §14.5.1. B Non-Voluntary Quit Penalties provides in part:

A client who refuses or fails to register with WorkForce WV... is subject to the following penalties for the full penalty period or until he reports a change which makes him exempt from work requirements...

- Third and subsequent violations: The client is removed from the AG for 12 months or until he meets an exemption. If after the 12 months, the client has not complied or met an exemption, the penalty continues until he does comply or meets an exemption for some reason other than Unemployment Compensation Insurance-related activities.

DISCUSSION

The Appellant's SNAP benefits were terminated for failure to register with WorkForce WV; the Appellant requested the fair hearing to contest the Respondent's action. Policy requires the Appellant to meet SNAP work requirements by registering with WorkForce WV within thirty (30) days of the original benefit approval and every twelve (12) months thereafter unless the Appellant demonstrated an exemption.

The Respondent must demonstrate by a preponderance of evidence that the Appellant did not meet SNAP work requirements by registering with WorkForce WV by the deadline or meet an exemption. The Respondent had to demonstrate that the Respondent's application of a SNAP ineligibility penalty was appropriately applied. The Respondent argued that the notice was clear that the Appellant was required to register with WorkForce WV by the deadline. The Respondent testified that prior to the issuance of the October 13, 2017 notices, the Respondent checked the eligibility system and no registration date was returned for the Appellant. After the Appellant's re-application for SNAP benefits was denied, the Appellant advised the Respondent that he should be exempted from the work requirement due to medical disability. The Respondent provided the Appellant with forms for the Appellant's physician to complete regarding medical disability; however, the Appellant had not completed the forms as of the date of the hearing. No evidence was entered to demonstrate that the Appellant met an exemption from the WorkForce WV registration requirement prior to the application of the ineligibility penalty. Pursuant to policy, the Appellant is required to meet the SNAP work requirement by registering for WorkForce WV by visiting a WorkForce WV office, by completing the registration online, or by meeting an exemption. The Appellant did not provide any information to demonstrate that he visited a WorkForce WV office, completed the registration online, or met an exemption.

Policy provides that a client that fails to register with WorkForce WV is subject to a penalty period. Because this is the Appellant's third penalty, he must remain ineligible for SNAP benefits for twelve (12) months or until he meets an exemption. During the hearing, the parties agreed that if the Appellant completed and submitted a disability statement that the Respondent would assess

the Appellant's eligibility for a WorkForce WV requirement exemption. The Respondent testified that if the Appellant qualified for an exemption that his SNAP ineligibility penalty could be removed.

Policies cited in the September 2017, October 2017, and December 2017 notices reflect policy sections from previous policy revisions and the current policy revision, effective October 2017. Although the policy citations are inconsistent between notices, the content of the policies remain the same and do not affect the Appellant's requirement to register for WorkForce WV or meet an exemption to maintain eligibility for SNAP benefits. Because a twelve (12) month SNAP benefit ineligibility penalty had been applied to the Appellant, the Respondent was correct in denying the Appellant's application for SNAP benefits.

CONCLUSIONS OF LAW

- 1) Policy requires a SNAP eligibility penalty to be implement for an applicant that fails to meet an exemption for SNAP work requirements or complete the WorkForce WV registration.
- 2) Because at the time of his application for SNAP benefits the Appellant was being sanctioned for his third penalty for failure to meet SNAP work requirements by meeting an exemption or by registering with the Bureau of Employment Programs (BEP), the Respondent's December 4, 2017 action to deny the Appellant's application for SNAP benefits was correct.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Department's decision to deny the Appellant's application as outlined in the December 4, 2017 notice.

ENTERED this 16th day of January 2018.

Tara B. Thompson
State Hearing Officer