



**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**

January 7, 2019

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:18-BOR-2781

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-2781

**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 13, 2018, on an appeal filed November 19, 2018.

The matter before the Hearing Officer arises from the September 25, 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 Tera Pendleton, Department Representative, WVDHHR. The Appellant appeared *pro se*. The Appellant's witnesses appeared by ██████████ and ██████████, the Appellant's sisters. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 eRAPIDS system screenshot printout of Case Comments, dated August 22, 2017 through November 19, 2018
- D-2 eRAPIDS system screenshot printout of WorkForce West Virginia (WorkForce WV) Registration, dated July 25, 2018
- D-3 Notice of Registration, dated August 27, 2018
- D-4 eRAPIDS system screenshot printout of Work requirement Penalty Summary, dated September 24, 2018
- D-5 Notice of Decision, dated September 25, 2018
- D-6 Notice of Closure, dated September 25, 2018
- D-7 eRAPIDS system screenshot printout of WorkForce WV Registration, dated November 19, 2018

- D-8 West Virginia Income Maintenance Manual (WV IMM) §§ 14.3.1.A through 14.3.1.13
- D-9 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) The Appellant is a member of a one-person Assistance Group (AG) for SNAP. (Exhibit D-1)
- 3) On August 27, 2018, the Respondent issued a notice of decision to the Appellant informing him that he must register with WorkForce WV and notify the Department of Health and Human Resources (DHHR) once registered. The notice read that the date of his registration deadline was September 23, 2018. (Exhibit D-3)
- 4) On September 25, 2018, the Respondent issued the Appellant two notices of decision informing him that effective November 1, 2018, a SNAP work requirement penalty had been applied to his benefits for failure to register with WorkForce WV. The notices 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-4 and D-6)
- 5) The September 25, 2018 notices were mailed to the Appellant's reported mailing address of [REDACTED].
- 6) The Appellant was residing at [REDACTED], until he moved in with his sister in November 2018.
- 7) The Appellant completed WorkForce WV registration requirements on November 19, 2018. (Exhibit D-7)
- 8) This is the Appellant's first violation of the WorkForce WV requirement.

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 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 § 14.5.1.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 for employment with WorkForce WV within thirty (30) days of benefit application or redetermination approval, unless they meet an exemption. By notice of decision dated August 27, 2018, the Respondent notified the Appellant that he was required to register by September 23, 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 August 27, 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 day [September 23, 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 September 24, 2018, the Respondent had not received notification the Appellant has registered with WorkForce WV. On September 25, 2018, the Respondent sent a notice of decision, informing the Appellant that a three (3) month sanction was

imposed against his receipt of SNAP benefits. A second notice, also dated September 25, 2018, informed that the sanction was scheduled to begin November 1, 2018.

The Appellant and his witnesses contended that he did not receive notice that he was required to register with WorkForce WV. However, the parties agreed that the address listed on the notices was correct. The Appellant moved in with his sister in November 2018, at which time the Appellant's sister contacted the local DHHR office via telephone and was informed that the Appellant was required to register with WorkForce WV. The Appellant completed registration on November 19, 2018. While the Respondent verified that the Appellant did register, the penalty could not be lifted since it was already in effect.

The Respondent proved by a preponderance of evidence that the Appellant failed to register with WorkForce WV prior to the October 31, 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 comply with SNAP work requirements by either registering with WorkForce WV or meeting an exemption no later than October 30, 2018.
- 2) The Appellant failed to register with WorkForce WV by October 30, 2018 deadline.
- 3) 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 November 1, 2018.
- 4) Because it is a first offense the penalty is (3) three months.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to apply a first offense SNAP requirement penalty to the Appellant, effective November 1, 2018.

ENTERED this _____ day of 2019.

Danielle C. Jarrett
State Hearing Officer