



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

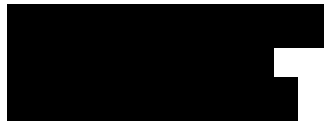
**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
Berkeley County DHHR
PO Box 1247
Martinsburg, WV 25402**

**Jolynn Marra
Interim Inspector General**

Esta es la decision de su Audiencia Imparcial. La decision del Departamento ha sido confirmada/invertido/remitido. Si usted tiene preguntas, por favor llame a Keyla Dominquez o Ana Seymour, 304-267-0100

April 20, 2020



RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-1374

Dear [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,

Lori Woodward
State Hearing Officer
Member, State Board of Review

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

cc: Peter VanKleeck, BCF, [REDACTED] Co. DHHR

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

████████████████████,

Appellant,

v.

ACTION NO: 20-BOR-1374

**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 April 9, 2020, on an appeal filed March 9, 2020.

The matter before the Hearing Officer arises from the Respondent's March 4, 2020 decision to close the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Peter VanKleeck, Family Support Supervisor. The Appellant appeared *pro se*. Both witnesses were sworn, and the following documents were admitted into evidence:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Work Force registration requirement notice (CMOB), dated September 27, 2019
- D-3 Work Force appointment notice, dated September 26, 2019
- D-4 Notice (AEO1) of work program referral, dated September 27, 2019
- D-5 West Virginia Department of Health and Human Resources Supplemental Nutrition Assistance Program Employment & Training (SNAP E&T) Notification Form (DFA-SNAP E&T-2), dated October 9, 2019
- D-6 West Virginia Income Maintenance Manual, Chapter 3, §3.2.1.D.2 - §3.2.1.D.8
- D-7 Notice (AEO6) notice of work requirement penalty, dated January 31, 2020
- D-8 WorkForce WV Registration Details screen print from the Appellant's eligibility system case
- D-9 Notice (EDC1) of SNAP benefit closure, dated January 31, 2020
- D-10 West Virginia Income Maintenance Manual, Chapter 14, §14.3

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, who lives in [REDACTED] County, West Virginia, applied for SNAP benefits on September 26, 2019.
- 2) The Appellant is considered an Able Bodied Adult Without Dependents (ABAWD) for SNAP eligibility purposes and, therefore, a referral to the SNAP Employment and Training (SNAP E&T) program was made. (Exhibit D-6)
- 3) The Respondent sent notification of the SNAP E&T referral to the Appellant on September 27, 2019. (Exhibit D-4)
- 4) On September 26, 2019, Work Force sent the Appellant a notice of an appointment for orientation with the SNAP E&T program on October 7, 2019. (Exhibit D-3)
- 5) On October 9, 2019, WorkForce sent notification to the Respondent of the Appellant's failure to attend the scheduled SNAP E&T orientation. (Exhibit D-5)
- 6) [REDACTED] County, West Virginia is an Issuance-Limited County (ILC) with enforced specified time limits for the ABAWD population to be eligible for SNAP benefits.
- 7) Policy allows an ABAWD who lives in an ILC to receive three full months of SNAP benefits without meeting a work requirement or an exemption. (Exhibit D-6)
- 8) The Appellant received SNAP benefits for the months of October, November and December 2019, and January and February 2020 without meeting ABAWD work requirements or an exemption.
- 9) Policy requires SNAP applicants to register with WorkForce West Virginia (WorkForce) within thirty days from the date of application unless exempt. (Exhibits D-2 and D-10).
- 10) On September 27, 2019, the Respondent sent notification to the Appellant regarding the SNAP work requirement, explaining that he must comply with WorkForce registration or meet an exemption by October 26, 2019. (Exhibit D-2)
- 11) The Appellant has not registered with WorkForce. (Exhibit D-8)
- 12) On January 31, 2020, the Respondent sent notification of SNAP penalty being applied to the Appellant's SNAP benefits case citing non-compliance with work registration requirements. (Exhibit D-7)

- 13) On January 31, 2020, the Respondent sent notification of SNAP closure effective March 1, 2020 due to the Appellant's failure to register with WorkForce and his receiving SNAP for three months without meeting work requirements or being exempt. (Exhibit D-9)

APPLICABLE POLICY

WV IMM §14.3.1.A, in part, explains that all individuals must register for employment with WorkForce West Virginia within 30 days of the date of the original approval unless exempt. Clients must register every 12 months thereafter, regardless of the length of time that WorkForce West Virginia considers the registration valid.

A listed exemption from the SNAP work requirements is allowed for regular participants in a drug addiction or alcoholic treatment and rehabilitation program, either on a resident or non-resident basis. Regular participation is defined by the drug addiction or alcoholic treatment and rehabilitation program. (WV IMM §14.2.1.B)

WV IMM, Chapter 14, §14.5, Snap Work Requirement Penalties, in part, directs that a Supplemental Nutrition Assistance Program (SNAP) penalty be imposed when clients do not comply with a work requirement and do not have good cause. The penalty must be served unless the client meets an exemption. The penalty is never applied to an entire assistance group (AG), only to the client who does not comply. When the reported exemption ends, the client is subject to the original penalty, unless he has complied or meets another exemption. Penalties are applied sequentially, regardless of the requirement not met. In addition, penalties are applied consecutively, and one penalty must end before another one is imposed.

WV IMM, Chapter 14, §14.5.1.B, stipulates that a client who refuses or fails to register with WorkForce, refuses employment, or refuses to provide information about employment status and job availability is subject to the following penalties for the full penalty period or until he reports a change which makes him exempt from the work requirements.

- First violation: The client is removed from the Assistance Group (AG) for at least three months or until he meets an exemption. If after three 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 (UCI) related activities.
- Second violation: The client is removed from the AG six months or until he meets an exemption. If after six 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 UCI-related activities.
- 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 UCI-related activities.

WV IMM, Chapter 3, §3.2.1.D.1, Definitions for ABAWD Purposes Only, (in part):

ABAWD - a population of individuals who are age 18 or older, but not yet age 50. An individual who turns 18 becomes an ABAWD in the month following their birthday. An individual is no longer an ABAWD in the month of their 50th birthday.

COUNTABLE MONTHS - months in which the client receives a full monthly benefit while not exempt or meeting the ABAWD work requirement.

FULFILLING THE ABAWD WORK REQUIREMENT - working and/or participating in an allowable ABAWD work activity for 20 hours per week or 80 hours per month.

ISSUANCE LIMITED COUNTY (ILC) -an issuance limited county is a county with enforced specified time limits for the ABAWD population to be eligible for SNAP benefits. Berkeley County is an included county.

THREE-MONTH LIMIT - first full three months of SNAP benefits received without meeting the ABAWD work requirements or being exempt.

WV IMM, Chapter 3, §3.2.1.D.3, in part, explains that all SNAP work requirements in Chapter 14 also apply to ABAWDs. An ABAWD must meet the ABAWD work requirements in addition to the SNAP work requirements in Chapter 14 to be eligible for SNAP benefits. As long as an ABAWD is exempt as found in the exemptions below or meets any of the requirements below, he may receive SNAP benefits, if otherwise eligible. Otherwise, he is ineligible once he has received SNAP benefits for three months without being exempt or meeting the ABAWD work requirement. The three months need not be consecutive and includes SNAP benefits received from another state.

While a client may choose not to cooperate with the West Virginia's voluntary SNAP E&T program, a client may not opt out of the ABAWD work requirement. A client may choose to cooperate with SNAP E&T at any time.

WV IMM, Chapter 3, §3.2.1.D.4, *Exemptions from ABAWD Time Limits and ABAWD Work Requirements*, in part, exempts those individuals who are regular participants in a drug addiction or alcoholic treatment and rehabilitation program when the participation in this program would prevent the individual from meeting the work requirement or participating in an employment/training program the required number of hours. When exempting ABAWDs due to participating in a drug addiction or alcoholic treatment and rehabilitation program, the Worker must verify the number of hours the client must commit to the program to determine if the individual is exempt.

Public Law No. 116-127, Title III, §2301(a), temporarily and partially suspends the time limit for Able-Bodied Adults Without Dependents (ABAWD) participation in the Supplemental Nutrition Program (SNAP) beginning April 1, 2020 until the public health emergency declaration is lifted by the Secretary of Health and Human Services.

DISCUSSION

The Appellant's SNAP benefits were stopped by the Respondent on March 1, 2020 due to non-compliance with SNAP work requirements. Notification of SNAP closure was sent to the Appellant on January 31, 2020, explaining that the Appellant was ineligible to participate in SNAP

based on failure to register with WorkForce and receiving three full months of SNAP benefits without meeting ABAWD work requirements.

██████ County is an ILC. An individual who is considered an ABAWD that lives in an Issuance-Limited County (ILC) in West Virginia, can only receive three full months of SNAP benefits without meeting ABAWD policy requirements or an exemption. The Appellant did not dispute the fact that he is a ██████ County, West Virginia resident who meets the SNAP definition of an ABAWD.

The Appellant was also required to register with WorkForce within 30 days of his September 26, 2019 SNAP application. On September 27, 2019, the Respondent sent the Appellant notification that he needed to register with WorkForce by October 26, 2019. Because the Appellant had not registered with WorkForce, the Respondent sent notification on January 31, 2020 that a SNAP work penalty was being applied as of March 1, 2020. Additionally, on January 31, 2020, the Respondent sent notification of SNAP benefit closure based upon non-registration with WorkForce and receipt of three full months without meeting ABAWD work requirements or an exemption.

The Appellant testified that he did not attend the SNAP E&T orientation because he did not have transportation. Policy does not provide an exemption for non-transportation. The Appellant also contended he should meet the drug and alcohol rehabilitation treatments ABAWD policy exemption. The Respondent's representative, Peter VanKleeck, testified that in order to meet the drug and alcohol rehabilitation treatment exemption, rehabilitation treatments must be attended several hours a week, or regularly so as to interfere with eligibility to work. The Appellant testified that he attends non-court ordered rehabilitation treatments three hours a week. The Appellant did not establish that he met an ABAWD exemption. As a consequence, the Appellant was only eligible to receive SNAP benefits for a total of three full months – October, November and December. The Appellant received an additional two months of SNAP benefits beyond what is allowed by policy.

The Appellant also contended that he went on the WorkForce website and registered. However, the Respondent's eligibility system, which tracks work registration, indicated the Appellant had not registered with WorkForce prior to the work requirement penalty being applied. Because the Appellant did not register with WorkForce or establish that he is exempt from registration, the Respondent's application of a SNAP three-month work requirement penalty on March 1, 2020 which resulted in benefit closure is affirmed.

CONCLUSIONS OF LAW

- 1) Policy requires individuals who are ABAWDS to participate in work or a work program unless exempt.
- 2) Policy limits ABAWDS who reside in an ILC to receiving three full months of SNAP benefits without meeting work requirements or an exemption.
- 3) The Appellant is a non-exempt ABAWD who resides in ██████ County, which is an ILC.

- 4) The Appellant received SNAP benefits for three full months without meeting work requirements in October, November and December 2019, and an additional two months of SNAP benefits for which he was ineligible in January and February 2020.
- 5) SNAP eligibility requires a non-exempt applicant to register with WorkForce within 30 days from SNAP application and then every 12 months thereafter.
- 6) The Appellant was required to register with WorkForce WV or meet an exemption by October 26, 2019.
- 7) Because the Appellant did not register with WorkForce or meet an exemption, a work requirement penalty must be imposed.
- 8) As this was the Appellant's first work requirement penalty, the Respondent correctly applied a three-month SNAP penalty against the Appellant beginning March 1, 2020.

DECISION

It is the decision of the State Hearing Officer to **uphold** the Respondent's decision to apply a work requirement penalty to the Appellant's SNAP benefits.

ENTERED this 20th day of April 2020.

Lori Woodward, State Hearing Officer