



**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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Fairmont, WV 26554
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Jolynn Marra
Interim Inspector
General

June 3, 2020



RE: [REDACTED] v. WVDHHR
ACTION NO.: 20-BOR-1529

Dear Ms. [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. 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, MLS
State Hearing Officer
State Board of Review

Enclosure: Appellant's Recourse
Form IG-BR-29

cc: Tera Pendleton, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 20-BOR-1529

**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' (DHHR) Common Chapters Manual. This fair hearing was convened on May 20, 2020 on an appeal filed April 17, 2020.

The matter before the Hearing Officer arises from the February 25, 2020 determination by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Tera Pendleton, ██████████ County DHHR. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case Comments, dated January 28 through April 14, 2020
- D-2 DHHR Notice, dated January 24, 2020
- D-3 eRAPIDS SNAP Work Requirement Penalty Summary printout
- D-4 DHHR Notice, dated February 25, 2020
- D-5 DHHR Notice, dated February 25, 2020
- D-6 eRAPIDS WorkForce WV Registration printout
- D-7 West Virginia Income Maintenance Manual (WVIMM) §§ 14.3, 4.5.1.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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits for a one-person Assistance Group (AG).
- 2) The Appellant did not meet an exemption and was required to register for WorkForce West Virginia.
- 3) On February 25, 2020, the Respondent issued a notice advising the Appellant that her SNAP benefits would be terminated after March 31, 2020, due to the Appellant's failure to register with WorkForce West Virginia (WorkForce) (Exhibits D-3 and D-5).
- 4) On January 23, 2020, the Respondent advised the Appellant by telephone of her requirement to register with WorkForce, options for registration, and the timeframe in which registration must be completed (Exhibit D-1).
- 5) On January 24, 2020, the Respondent issued a notice advising the Appellant that she was required to register with WorkForce by February 22, 2020 (Exhibit D-2).
- 6) On January 28, 2020, the Appellant called and advised the Respondent that she had registered with WorkForce (Exhibit D-1).
- 7) On January 28, 2020, the Respondent checked the record and documented that the Appellant's WorkForce registration status reflected that the Appellant had an inactive job status and no registered preferences (Exhibit D-1).
- 8) On February 24, April 8, and May 20, 2020, the Respondent checked the Appellant's WorkForce registration status and the Appellant's job status was inactive with no preferences (Exhibit D-1 and D-6).
- 9) On February 25, 2020, the Respondent issued a notice advising the Appellant that a 3-month SNAP ineligibility penalty would be imposed on her benefits due to her failure to complete WorkForce registration (Exhibit D-4).
- 10) On May 7, 2020, the United States Food and Nutrition Service (FNS) granted DHHR the option to issue good cause to recipients for failure to complete WorkForce registration for SNAP purposes based on the COVID-19 public health crisis.

- 11) Pursuant to the WorkForce COVID-19 DHHR field instructions, clients whose SNAP benefits closed March 31, 2020, for lack of WorkForce registration will need to reapply and are not eligible for COVID-19 public health crisis good cause.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 14.3.1.A provides in part:

All individuals must register for employment with WorkForce West Virginia within 30 days of the date of the original approval, unless exempt according to Section 14.2. Clients must register every 12 months thereafter, regardless of the length of time that WorkForce West Virginia considers the registration valid. Actions which constitute a registration are defined by WorkForce West Virginia and the eligibility system must:

- Match with WorkForce West Virginia registration date updated
- Match the date returned from WorkForce West Virginia is more than 12 months old. The client must register again.
- Match with WorkForce West Virginia with inactive job status and no job preference. The client must choose a job preference and become active to be considered registered.
- Match with WorkForce West Virginia with inactive job status and with job preference. The client must become active to be considered registered.
- Match with WorkForce West Virginia with active job status and no job preference. The client must choose a job preference to be considered registered.

Once the client registers with WorkForce West Virginia for SNAP purposes, he cannot be required to register more than every 12 months even when the benefit is opened and closed within the 12 month period.

The client may register by visiting a WorkForce West Virginia office, or by registering online. The Worker must explain these requirements to the client and enter the registration date in the eligibility system

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.

Periodic reviews of total eligibility for recipients are mandated by federal law The redetermination process involves basically the same activities described in the Application Process above.

WVIMM § 14.3.1.B WorkForce West Virginia provides in part:

The eligibility system will present a registration date obtained from WorkForce West Virginia. If the client is not registered, no date will be returned.

WVIMM § 14.5.1.B Non-Voluntary Quit Penalties provides in part:

A client who fails to register with WorkForce West Virginia is subject to a first violation penalty. The client is removed from the 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.

WVIMM §10.4.2.B.1 Sources of Information Verified Upon Receipt provides in part:

Action must be taken for all AGs when information is received from a source that is considered verified upon receipt. Verified upon receipt sources are not subject to independent verification and the provider is the primary source of information. Work registration data from WorkForce West Virginia is a verified upon receipt source.

DISCUSSION

No evidence was entered to demonstrate that the Appellant met a WorkForce exemption; therefore, the evidence established that the Appellant was required to register for WorkForce as a condition of continued receipt of SNAP benefits as required by policy. The Respondent imposed a SNAP ineligibility sanction on the Appellant due to her failure to register with WorkForce. The Appellant contended that she had registered and that a sanction should not have been applied.

The Respondent had to prove by a preponderance of evidence that the Appellant failed to register with WorkForce and that a SNAP ineligibility sanction was applied according to the policy. The policy required the Respondent's worker to explain WorkForce registration requirements to the Appellant. The January 23, 2020 Case Comments and the January 24, 2020 notice issued by the Respondent verify that the Respondent fulfilled its responsibility to explain WorkForce registration requirements to the Appellant. On January 28, February 24, April 8, and May 20, 2020, the Respondent checked the Appellant's WorkForce registration status and the Appellant's job status was inactive with no preferences.

During the hearing, the Respondent testified that COVID-19 field instructions had been reviewed to determine whether the Appellant was eligible for good cause for failure to register with WorkForce and the Respondent found that the Appellant did not meet the conditions to establish good cause. Under review of the COVID-19 field instructions, this Hearing Officer verified that because the Appellant's SNAP benefits were closed March 31, 2020, for lack of WorkForce registration, field instruction directives require the Appellant to reapply and establish that she is ineligible for COVID-19 public health crisis good cause.

Although the Appellant argued that she had registered with WorkForce and notified the Respondent of her registration, the policy establishes that WorkForce registration data is verified upon receipt and is not subject to independent verification. As the Respondent was not required by

policy to independently verify WorkForce registration data that conflicted with the Appellant's statement regarding her registration and because the Respondent's multiple reviews of WorkForce registration data reflected that the Appellant was not registered with WorkForce for SNAP purposes, the preponderance of evidence established that the Respondent acted according to the policy when determining that the Appellant had failed to register with WorkForce. The policy requires the Respondent to impose an ineligibility penalty on clients who fail to register with WorkForce. The preponderance of evidence verified that the Respondent correctly imposed a first violation three-month SNAP ineligibility penalty on the Appellant.

CONCLUSIONS OF LAW

- 1) The Appellant was aware of her requirement to register for WorkForce as a condition of continued receipt of SNAP benefits.
- 2) The preponderance of evidence verified that the Appellant failed to register with WorkForce for SNAP purposes by the February 22, 2020 deadline.
- 3) The preponderance of evidence verified that the Respondent correctly imposed a first violation three-month SNAP ineligibility penalty on the Appellant.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to impose a first violation three-month SNAP ineligibility penalty on the Appellant.

ENTERED this 3rd day of June 2020.

Tara B. Thompson
State Hearing Officer