



**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**

June 11, 2020

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 20-BOR-1640

Dear Mrs. [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: 20-BOR-1640

**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 May 28, 2020, on an appeal filed May 12, 2020.

The matter before the Hearing Officer arises from the May 5, 2020 decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits by applying a work requirement penalty for failure to comply with the work requirement.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 eRAPIDS computer system screenshot printout of Case Comments, dated March 30, 2020 through May 14, 2020
- D-2 Notice of Verification, dated February 25, 2020; ██████████ Paystubs, dated October 17, 2020 through November 20, 2020; and Written Correspondence from ██████████, dated March 2, 2020
- D-3 eRAPIDS computer system screenshot printout of Employment Income, dated April 1, 2020
- D-4 Notice of Decision, dated April 2, 2020
- D-5 eRAPIDS computer system screenshot printout of SNAP Work Requirement Penalty Summary, dated May 4, 2020; and eRAPIDS computer system screenshot printout of SNAP Work Requirement Penalty Request, dated May 4, 2020
- D-6 Notice of Decision, dated May 5, 2020

- D-7 Notice of Decision, dated May 5, 2020
D-8 West Virginia Income Maintenance Manual (WV IMM) §§ 14.3 through 14.5.1.B;
and 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) On April 1, 2020, the Appellant's SNAP application was processed and SNAP benefits were approved for a two-person Assistance Group (AG). (Exhibit D-1)
- 3) The Appellant's husband was employed and working less than thirty (30) hours per week.
- 4) On April 2, 2020, the Respondent issued notice to the Appellant informing her that her husband was required to register with WorkForce West Virginia (WorkForce WV) and notify the DHHR once registration was completed. The notice indicated his registration deadline was May 1, 2020. (Exhibit D-4)
- 5) On May 5, 2020, the Respondent issued the Appellant two notices of decision. The notices informed that effective June 1, 2020, a SNAP work requirement penalty would be applied to the Appellant's benefits for her husband's failure to register with WorkForce WV and 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-6 and D-7)
- 6) The Appellant's husband moved from her residence on May 1, 2020.
- 7) On May 13, 2020, the Appellant reported that her husband was no longer residing in her household. (Exhibit D-1)
- 8) As a result of the work requirement penalty, the Appellant's SNAP benefits were reduced to \$16 per month.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) § 10.4.2.B.2 explains that changes reported during an application or redetermination for any program of assistance that is entered in the eligibility system and includes an AG member, are considered reported changes for SNAP and require follow up and/or action for all AGs.

WV IMM § 10.4.3.A.2 reads for changes that result in an increase in benefits, if the next issuance date is more than ten (10) days after the change is reported, the change is effective the month following the report month or if the next issuance date is within ten (10) days of the date the change is reported, the change is effective two (2) months after the report month.

WV IMM § 10.5.3 Effective Date of the Change provided in part:

The agency must act on reported changes to ensure the changes are effective in the next month's benefit, when adverse notice requirements permit. Benefits must be restored to the client or repaid to the agency when changes cannot be made in a timely manner.

WV IMM § 10.5.4.D.2 reads that deletions from the AG are effective the month after the change occurs and the advance notice period expires.

WV IMM § 10.6.4.C explains when there is an addition to, or a deletion from, the AG, needs group (NG), and/or income group (IG), individual eligibility for each member must be evaluated.

WV IMM § 14.2 requires all SNAP clients to be subject to a work requirement, unless exempt.

WV IMM § 14.3.1.A Registration Requirement provides in part:

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 WorkForce West Virginia 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. 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 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. The penalty is never applied to an entire 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.

WV IMM § 14.5.1.B explains that when a client 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 AG for at least three (3) months or until he meets an exemption, whichever is later.

DISCUSSION

The Appellant was a recipient of SNAP benefits. On April 1, 2020, the Appellant's SNAP application was processed and SNAP benefits were approved for a two-person Assistance Group (AG). The Appellant contests the Respondent's decision to apply a three (3) month SNAP penalty for her husband's failure to register with WorkForce WV. The Appellant also contested the reduction of her SNAP benefit issuance amount effective June 1, 2020.

The Appellant's husband was employed and working less than thirty (30) hours per week. Because the Appellant's husband was not employed thirty (30) hours per week, policy requires that SNAP recipients register with WorkForce WV within thirty (30) days of benefit application or redetermination approval, unless they meet an exemption.

By notice of decision dated April 2, 2020, the Respondent notified the Appellant that her husband was required to register with WorkForce WV by May 1, 2020, in order to comply with SNAP policy. WorkForce WV is an employment referral service operated by the West Virginia Bureau

of Employment Programs (WV BEP). The April 2, 20230 notice read as follows regarding an individual who registers after the registration deadline, but before the sanction begins: “If you do not register by this date [May 1, 2020], but prior to the end of the month in which the registration is due, you must notify the local office.”

The Respondent indicated because the Department did not receive notification that the Appellant’s husband had registered with WorkForce WV as of May 5, 2020, the Respondent issued the Appellant two notices of decision. The notices informed her that effective June 1, 2020, a SNAP work requirement penalty would be applied to her benefits for her husband’s failure to register with WorkForce WV and that he would remain ineligible for SNAP benefits for a period of three (3) months or until he complied with the registration requirement, whichever was longer.

The Appellant did not disagree with the Respondent’s testimony or that her husband was required to register but argued because he was no longer living in her household his failure to register should not result in the reduction of her SNAP benefits. The Appellant testified that she has been married to her husband for five (5) years but they have lived separately. The Appellant testified that at the time of her SNAP application she allowed her husband to reside in her residence for a few months because he needed a place to stay. The Appellant testified that her husband moved out of her residence on May 1, 2020. The Appellant’s testimony was credible.

The Respondent’s case recording comments indicate the Appellant contacted DHHR Client Services on May 13, 2020, and the Appellant reported her husband was no longer living in her household. The Respondent’s case recording comments indicate that DHHR Client Services took no action on her reported change because of a pending hearing. Per policy, when there is a deletion from the AG, the Appellant’s eligibility must be re-evaluated. As a result of the reported change, the husband was no longer a part of the Appellant’s AG effective the month following the report month (June 2020). In accordance with policy, the Appellant’s SNAP benefit must be re-evaluated without the inclusion of the husband or his work requirement penalty in the Appellant’s AG.

CONCLUSIONS OF LAW

- 1) The Appellant’s husband was required to comply with SNAP work requirements by either registering with WorkForce WV or meeting an exemption no later than May 31, 2020.
- 2) The Appellant’s husband failed to register with WorkForce WV or meet an exemption by May 31, 2020.
- 3) The Respondent was correct in applying a three (3) month work penalty sanction on the Appellant’s husband.
- 4) Because the Appellant’s husband moved from her residence on May 1, 2020, he is no longer considered a part of her AG.

- 5) The May 13, 2020 reported change in household composition (removal of the Appellant's husband) is effective June 1, 2020.
- 6) The Respondent failed to act on the reported change as required by policy, the Appellant's SNAP benefit calculation for June 2020 is incorrect and must be recalculated.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to impose a work requirement penalty effective June 1, 2020, on the Appellant's husband. It is further the decision of the State Hearing Officer that the Respondent's decision to reduce the Appellant's SNAP benefits as a result of her husband's work requirement penalty is **REVERSED** and **REMANDED** to the Respondent for re-calculation of the Appellant's SNAP benefit amount.

ENTERED this _____ day of June 2020.

Danielle C. Jarrett
State Hearing Officer