



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
State Capitol Complex
Building 6, Room 817-B
Charleston, West Virginia 25305
Telephone: (304) 558-2278 Fax: (304) 558-1992**

**Jolynn Marra
Interim Inspector General**

October 29, 2020



RE: [REDACTED] v. WVDHHR
ACTION NO.: 20-BOR-2207

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. 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,

Angela D. Signore
State Hearing Officer
State Board of Review

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

cc: Pamela Ellison, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 20-BOR-2207

**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' (WV DHHR) Common Chapters Manual. This fair hearing was convened on October 14, 2020, on an appeal filed September 17, 2020.

The matter before the Hearing Officer arises from the August 13, 2020 determination by the Respondent to apply a twelve (12) month work requirement penalty, thereby, terminating the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Pamela Ellison, Economic Service Worker, WV DHHR. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV PATH eligibility system printout of Case Benefit Summary, dated July 16, 2019 through August 11, 2020
- D-2 West Virginia Department of Health and Human Resources' (WV DHHR) Fair Hearing Request Form, dated September 15, 2020 and signed by ██████████
- D-3 WV PATH eligibility system printout of Case Comments dated July 09, 2019 through September 25, 2020
- D-4 WorkForce WV Registration system printout of historical information for ██████████, dated July 2019 and September 2020; WV PATH eligibility system printout of SNAP Work Requirement Penalty Request Summary updated October 02, 2020
- D-5 WV DHHR Notice of Eligibility, dated June 11, 2020; WV DHHR Notice of Decision, dated July 14, 2020; WV DHHR Notice of Decision, dated July 17,

- 2019; WV DHHR Notification of Good Cause Closure, dated August 05, 2020; WV DHHR Notification of Eligibility, dated August 12, 2020; WV DHHR Notice of Decision, dated August 12, 2020; WV DHHR Notice of Decision, dated August 13, 2020, and WV DHHR Notice of Eligibility, dated August 13, 2020
- D-6 West Virginia Income Maintenance Manual (WVIMM) § 3.2.1.B.8; WVIMM Chapter 4, Disqualified Individual; WVIMM Chapter 4, Gross Income; WVIMM Chapter 4, Minimum SNAP Benefit; WVIMM Chapter 4, Sanctioned Individual; WVIMM § 14.3.1 through 14.3.1.B; WVIMM § 14.2.1.A through 14.2.1.B; WVIMM § 14.3; WVIMM § 14.5.1.A, and WVIMM § 14.9.1.F.3

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.
- 2) Due to the COVID-19 pandemic, on May 01, 2020, the WV DHHR began granting good cause to individuals who reported they were unable to register with WorkForce WV. (Exhibit D-5)
- 3) On June 11, 2020, the Respondent issued a notice of decision to the Appellant informing her that she was required to register with WorkForce West Virginia (WorkForce WV) or meet an exemption and notify the Department of Health and Human Resources (DHHR) once registration was completed. The notice indicated her registration deadline was July 10, 2020. (Exhibit D-5)
- 4) On July 14, 2020, the Respondent issued a second notice of decision to the Appellant informing her that effective August 01, 2020, a SNAP work requirement penalty would be applied to her benefits for failure to register with WorkForce WV or meet an exemption.
- 5) On July 20, 2020, the Appellant contacted the Department to report she was unable to register for WorkForce WV in person, in addition to having trouble registering with WorkForce WV online. (Exhibit D-3)
- 6) Due to the COVID-19 pandemic, difficulties with WorkForce WV, and a backlog of cases caused by both hardships, the Department granted good cause for the Appellant's failure to register with WorkForce WV or meet an exemption, and did not enforce the August 01,

2020 notification of work requirement penalty issued to the Appellant on July 14, 2020. (Exhibit D-5)

- 7) On August 05, 2020, the WV DHHR issued a notice to all individuals who reported they were unable to register with WorkForce WV based on circumstances due to COVID-19. The notice informed those individuals who had not met the mandatory work requirement that the temporary change in procedure had now ended. The notice further advised that SNAP household individuals who failed to register by August 31, 2020, or meet an exemption, will see their SNAP benefits reduced/closed effective September 01, 2020. (Exhibit D-5)
- 8) On August 13, 2020, the Respondent issued a notice of decision to the Appellant informing her that effective September 01, 2020, her benefits would be reduced and a SNAP work requirement penalty would be applied for failure to register with WorkForce WV or meet an exemption.
- 9) This is the Appellant's third violation of the SNAP work requirement. (Exhibit D-5)

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 14.2 General SNAP Work Requirements and Exemptions provides, in part:

All SNAP clients are subject to a work requirement unless exempt.

SNAP work requirements are waived for individuals who complete a joint SNAP/Supplemental Security Income (SSI) application at the Social Security Administration (SSA) office until SSI eligibility is determined.

WVIMM § § 14.3.1.A Registration Requirements 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 Supplemental Nutrition Assistance Program (SNAP) purposes, he cannot be required to register more often than every 12 months, even when the benefit is opened and closed within the 12-month period. This is tracked through the eligibility system.

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. 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.

WVIMM § 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. 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.

WVIMM § 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.

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

An individual who refuses or fails to register with WorkForce WV 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. For a third violation, the individual is removed from the SNAP AG for at least twelve (12) months or until he meets an exemption, whichever is later.

DISCUSSION

The Respondent bears the burden of proof to establish that action taken against the Appellant was in accordance with policy. The Respondent had to prove by a preponderance of evidence that the Appellant's SNAP benefits were correctly terminated, and a third sanction applied based on the Appellant's non-compliance with the WorkForce WV registration requirement.

Pursuant to policy, an individual must register with WorkForce WV yearly as a condition of eligibility to receive SNAP benefits, unless an exemption is met. If an individual fails to register with WorkForce WV or meet an exemption by the due date listed on the registration request letter, but registration is completed prior to the effective date of the SNAP penalty and the Respondent is notified of the registration, the penalty may be removed.

By notice of decision dated June 11, 2020, the Respondent notified the Appellant that she was required to register with WorkForce WV or meet an exemption by July 10, 2020, in order to comply with SNAP policy. The June 11, 2020 notice read as follows: "If you do not register by this date, but prior to the end of the month in which the registration is due, you must notify the local office."

On July 14, 2020, when the Appellant failed to register with WorkForce WV or meet an exemption, the Respondent issued two notices of decision. The notices informed the Appellant that due to failure to register with WorkForce WV, a second work requirement penalty had been applied and the Appellant's SNAP benefits would terminate effective August 01, 2020. The decision notified the Appellant that she would remain ineligible for SNAP benefits for a period of twelve (12) months or until she complied with the registration requirement, whichever was longer.

On July 20, 2020, the Appellant testified that due to the COVID-19 pandemic, on an unknown date, when she attempted to register in person for WorkForce WV, the WorkForce WV office was closed to the public. The Appellant also stated she had difficulty completing her registration via the online portal, due to a password error. The Department corroborated the Appellant's testimony and testified to advising the Appellant to attempt a password reset in order to establish access for registration.

On August 05, 2020, the WV DHHR issued a notice to individuals who reported they were unable to register with WorkForce WV based on circumstances due to COVID-19. The notice informed all individuals that this temporary change in procedure had ended. The notice further advised any SNAP household individuals who failed to register with WorkForce WV or meet an exemption by August 31, 2020, will see their SNAP benefits reduced/closed effective September 01, 2020.

On August 13, 2020, the Respondent issued a notice of decision to the Appellant informing her that effective September 01, 2020, a SNAP work requirement penalty would be applied to her benefits for failure to register with WorkForce WV or meet an exemption. The notice informed her that she would remain ineligible for SNAP benefits for a period of twelve (12) months or until she complied with the registration requirement, whichever was longer. The Appellant testified that she did not disagree with the Department's assessment and did not want to allege the Department was "not doing their job".

It should also be noted that during a phone call on August 11, 2020, the Appellant notified the Department of applying for Social Security Disability Benefits. As established by policy, SNAP work requirements are waived for individuals who complete an application for Social Security Disability Benefits until eligibility is determined. Evidence provided demonstrates at the time of notification, the Department requested a statement from the Appellant's physician affirming her application for Social Security Disability Benefits in order for the Department to grant the Appellant an exemption from the work requirement policy. However, because the Appellant failed to submit the requested documentation, an exemption could not be applied.

On September 10, 2020, the Appellant contacted the Department to report that she had successfully registered with WorkForce WV. However, because the August 05, 2020 notice sent to individuals who reported they were unable to register with WorkForce WV based on circumstances due to COVID-19 clearly indicated that if registration was not completed by the due date of August 31, 2020, effective September 01, 2020, SNAP benefits would be reduced/closed. Because this is the Appellant's third work requirement penalty, she would remain ineligible for SNAP benefits for a period of twelve (12) months or until she complied with the work requirement or met an exemption, whichever was longer.

Because the Appellant did not dispute the Department's assessment of the two previously served sanctions, the Appellant should have been aware of the importance of timely registration. Whereas the Appellant did not complete her WorkForce registration until after the SNAP penalty was imposed, the penalty cannot be removed.

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 August 31, 2020.
- 2) Because the Appellant failed to submit the requested documentation affirming her application for Social Security Disability Benefits an exemption from the work requirement policy could not be applied.

- 3) Because the Appellant failed to register with WorkForce WV prior to the SNAP penalty imposition on September 01, 2020, the penalty cannot be removed.
- 4) Because the penalty against the Appellant is a third offense, the Appellant is ineligible for SNAP benefits for a period of twelve (12) months.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to impose a SNAP work requirement penalty for a period of twelve (12) months effective September 1, 2020.

ENTERED this ____ day of October 2020.

Angela D. Signore
State Hearing Officer