



**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) 558-0955 Fax: (304) 558-1992**

**Jolynn Marra
Interim Inspector General**

October 21, 2020



RE: [REDACTED] v. WV DHHR
ACTION NO.: 20-BOR-2218

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 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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

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

cc: Chelsea Zerkle, Department Representative

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

██████████,

Appellant,

v.

Action Number: 20-BOR-2218

**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 October 15, 2020, on an appeal filed September 22, 2020.

The matter before the Hearing Officer arises from the August 4, 2020 decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits due to a work registration sanction.

At the hearing, the Respondent appeared by Chelsea Zerkle. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- D-1 Notice of work registration requirement, dated July 2, 2020
- D-2 Notice of SNAP termination, dated August 4, 2020
- D-3 Notice of SNAP work penalty, dated August 4, 2020

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 SNAP benefits.
- 2) On July 2, 2020, the Respondent mailed the Appellant a notice advising her that she must register for employment with WorkForce West Virginia. (Exhibit D-1)
- 3) This notice (Exhibit D-1) advised the Appellant that she would be sanctioned if she failed to comply with the work registration requirement.
- 4) This notice (Exhibit D-1) provided a July 31, 2020 deadline to comply with the work registration requirement and to advise the Respondent that she had done so.
- 5) The Appellant did not comply with the work registration requirement before the established deadline.
- 6) On August 4, 2020, the Respondent sent the Appellant a notice advising her that the SNAP work penalty would be applied to her case. (Exhibit D-3)
- 7) The Respondent sent the Appellant an additional notice (Exhibit D-2) on August 4, 2020 (Exhibit D-2) to advise the Appellant that the work penalty would result in termination of her SNAP benefits.
- 8) The Appellant ultimately complied with the work registration requirement on September 11, 2020.
- 9) The Appellant is the sole individual in her SNAP assistance group (AG).
- 10) The Appellant's work sanction is a third or subsequent sanction.

APPLICABLE POLICY

West Virginia Income Maintenance Manual Chapter §14.2.1.A states that all SNAP clients are subject to a work requirement, unless exempt.

West Virginia Income Maintenance Manual §14.3.1.A states all SNAP recipients must register for employment with WorkForce West Virginia, within 30 days of the date of the original SNAP approval, unless exempt. Recipients 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 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. WorkForce registration must be for SNAP purposes to be considered a valid and current registration.

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 the adverse notice expires, the following occurs:

- The client registers; **and**
- The client notifies the Department of Health and Human Resources (DHHR) that he has registered. If the worker independently discovers before the penalty goes into effect that the client has registered before the end of the month in which the adverse notice expires, the penalty may be lifted and benefits restored. There is no requirement on the Department, however, to attempt to independently verify if the client has registered after the date the penalty is entered into the system.

West Virginia Income Maintenance Manual §14.5.1.B states that a client who refuses or fails to register with WorkForce West Virginia 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.

DISCUSSION

The Appellant has appealed the Respondent's decision to terminate her SNAP benefits related to a work registration sanction. The Respondent must show by a preponderance of the evidence that it properly terminated SNAP benefits on this basis.

The Appellant testified that she knew she needed to register with WorkForce West Virginia. The Appellant testified that she visited, called, and went online to contact the WorkForce West Virginia offices. The Appellant was asked to clarify which office or offices she contacted, and she testified that she was referring to WorkForce West Virginia offices, and not her local DHHR office. When asked for a date that she contacted the office as stated, the Appellant could not give one but claimed it was before the July 31, 2020 deadline given on the July 2, 2020 (Exhibit D-1) notice. When the Appellant was asked if there were records – such call logs stored on her phone or online browser history – to support her testimony or pin down a specific date, she claimed there was no online record and that her call logs were no longer on her phone. The Appellant testified that she registered a second time – after imposition of the sanction – and provided this date as September 11, 2020.

The Respondent notified the Appellant of the work registration requirement and relies on a data exchange with WorkForce West Virginia to confirm compliance with this requirement. In the Appellant's case, the Respondent determined the Appellant did not comply with the work registration requirement and took the actions to impose a SNAP work penalty and terminate the Appellant's SNAP benefits on this basis. Given the evasive and unconvincing testimony of the Appellant, the Respondent's assertion that the Appellant did not register as required is given more weight. The Respondent's claim that the sanction in question is a "third or subsequent" sanction based on its data system records is more convincing than the Appellant's recollection that the sanction is not at least a third sanction. There was no dispute that the Appellant complied with the registration requirement after imposition of the sanction nor any claim by the Appellant that she met an exemption to the work registration requirements. Therefore, policy indicates the Appellant is subject to the penalty "...for the full penalty period or until [he] reports a change which makes [him] exempt from the work requirements."

The Respondent was correct to impose a sanction against the Appellant for failure to comply with the WorkForce West Virginia requirements. The Respondent correctly imposed a "third or subsequent" sanction resulting in removal of the Appellant from her SNAP assistance group (AG) for twelve (12) months. The action to terminate the Appellant's SNAP benefits was correct because she was the sole member of her SNAP AG and her removal resulted in SNAP case closure.

CONCLUSIONS OF LAW

- 1) Because the Appellant did not comply with a WorkForce work registration requirement by the established deadline, the Respondent was correct to impose a sanction.
- 2) Because the sanction in question is a third or subsequent sanction, the Respondent correctly removed the Appellant from her SNAP assistance group (AG).

- 3) Because the Appellant is the sole member of her SNAP AG, the Respondent's action to remove her from the SNAP AG correctly resulted in case closure.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate SNAP benefits based on a SNAP work registration penalty.

ENTERED this ____ Day of October 2020.

**Todd Thornton
State Hearing Officer**