



**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

November 18, 2020



RE: [REDACTED] v. WVDHHR
ACTION NO.: 20-BOR-2320

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: Patsy Spence, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 20-BOR-2320

**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 (WV) Department of Health and Human Resources' (DHHR) Common Chapters Manual. This fair hearing was convened on October 27, 2020, on an appeal filed October 5, 2020.

The matter before the Hearing Officer arises from the September 10, 2020 determination by the Respondent to apply a six (6) month work requirement penalty, thereby, terminating the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Patsy Spence, Economic Service Supervisor, DHHR. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Case Summary for Joseph Fox, dated October 27, 2020
- D-2 West Virginia Income Maintenance Manual (WVIMM) § 14.2.1.A
- D-3 WVIMM § 14.2.1.B
- D-4 WVIMM § 14.3
- D-5 WVIMM §§ 14.5.1, 14.5.1.B
- D-6 WV DHHR Notice of Decision, dated August 07, 2020
- D-7 WV DHHR Notice of Decision, dated September 10, 2020
- D-8 WV DHHR Notice of Termination, dated September 10, 2020
- D-9 WV PATH eligibility system printout of Case Comments dated September 09, 2020 through October 09, 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 following Findings of Fact are set forth.

FINDINGS OF FACT

- 1) The Appellant was a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) 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.
- 3) On August 07, 2020, the Respondent issued notice of decision to the Appellant informing the Appellant that he was required to register with WorkForce West Virginia (WorkForce WV) and notify the Department of Health and Human Resources (DHHR) once registration was completed. The notice indicated his registration deadline was September 05, 2020. (Exhibit D-6)
- 4) On September 10, 2020, the Respondent issued the Appellant two notices of decision informing him that effective October 01, 2020, a SNAP work requirement penalty would be applied to his benefits for failure to register with WorkForce WV. The notices informed the Appellant that he would remain ineligible for SNAP benefits for a period of six (6) months or until he complied with the registration requirement, whichever was longer. (Exhibits D-7 and D-8)
- 5) On October 05, 2020, the Appellant contacted the Department via telephone to verbally request a Fair Hearing based on the September 10, 2020 Notice of Termination for failure to register with WorkForce WV. (Exhibit D-1)
- 6) During the October 05, 2020 phone call to the Department, the Appellant reported he was unable to register for WorkForce WV due to his inability to read. (Exhibit D-1)
- 7) This is the Appellant's second violation of the SNAP work requirement. (Exhibit D-2)

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.

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 second violation, the individual is removed from the SNAP AG for at least six (6) 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 second 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 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 August 07, 2020, the Respondent notified the Appellant that he was required to register with WorkForce WV by September 05, 2020, in order to comply with SNAP

policy. The August 07, 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 September 05, 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 October 01, 2020. The decision notified the Appellant that he would remain ineligible for SNAP benefits for a period of six (6) months or until he complied with the registration requirement, whichever was longer.

The Appellant testified that on an unknown date in August 2020, when he attempted to register for WorkForce WV via in person at the local office, he was informed that he would not be able to complete his WorkForce WV registration for three (3) additional days. The Appellant provided additional testimony stating on another unknown date in August 2020, when he returned to the local office to register for WorkForce WV, he was informed by security that due to the COVID-19 pandemic, the WorkForce WV office was closed to the public, once again preventing him from registering in person.

When asked to explain the Department’s protocol for in person visitors during the COVID-19 pandemic, the Department testified that it could be accomplished in one (1) of three (3) different ways: 1) a Department worker stationed at the front desk sends an e-mail to WorkForce WV to alert them of an in person client needing to register and asks that they “contact them at their earliest convenience,” 2) the client is asked to put a note in a box designated for WorkForce WV stating their need to register, or 3) the client can “take a registration packet home to fill out.” However, the Department argued that there is nothing on file in the Appellant’s case indicating he had visited the local office on either occasion. It should also be noted the Department testified to the availability of assistance for all in person clients with disabilities by either the security officer or the stationed Department worker.

While the Appellant’s disability is unfortunate, after his two (2) failed attempts to register for WorkForce WV on the unknown dates in August 2020, the Appellant neglected to contact the Department regarding any registration difficulty he had experienced until October 05, 2020, four (4) days after the SNAP work requirement penalty was imposed.

Because the Appellant’s testimony was unconvincing, and because he did not dispute the Department’s assessment of a previously served sanction, the Appellant should have been aware not only of the importance of timely registration; but also the importance of reporting any disabilities or incapacity that would prohibit or exempt him from participating in the SNAP WorkForce WV requirement. Because the Appellant failed to report any difficulties 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 September 05, 2020.

- 2) Because the Appellant failed to register with WorkForce WV prior to the SNAP penalty imposition, the penalty cannot be removed.
- 3) Because the penalty against the Appellant is a second offense, the Appellant is ineligible for SNAP benefits for a period of six (6) 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 six (6) months effective October 1, 2020.

ENTERED this ____ day of November 2020.

Angela D. Signore
State Hearing Officer