



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
State Capitol Complex
Building 6, Room 817-B
Charleston, West Virginia 25305
Telephone: (304) 558-2278 Fax: (304) 558-1992**

**Bill J. Crouch
Cabinet Secretary**

**Jolynn Marra
Interim Inspector General**

March 4, 2021



RE: [REDACTED] v. WVDHHR
ACTION NO.: 21-BOR-1101

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.: 21-BOR-1101

**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 February 24, 2021, on an appeal filed January 7, 2021.

The matter before the Hearing Officer arises from the December 16, 2020 determination by the Respondent to apply a six (6) month sanction, 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*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV DHHR Notice of Decision, dated November 10, 2020
- D-2 WV DHHR Notice of Decision, dated December 16, 2020
- D-3 West Virginia Income Maintenance Manual (WVIMM) § 14.2
- D-4 WVIMM § 14.3
- D-5 WVIMM § 14.5
- D-6 WV DHHR Notice of Decision, dated December 16, 2020
- D-7 WV PATH eligibility system printout of Case Comments dated December 27, 2018 through October 30, 2020
- D-8 WV PATH eligibility system printout of Case Comments dated December 15, 2020 through January 22, 2021
- D-9 WV PATH eligibility system printout of SNAP Work Requirement Penalty Summary dated January 07, 2021

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 November 10, 2020, the Respondent issued a notice of decision to the Appellant advising him of the need to register with WorkForce West Virginia (WorkForce) or meet an exemption and notify the Department of Health and Human Resources (DHHR) by December 09, 2020. (Exhibit D-1)
- 3) The Appellant failed to register with WorkForce or meet an exemption prior to the established deadline.
- 4) On December 16, 2020, the Respondent issued two additional notices of decision to the Appellant informing him that effective January 01, 2021, a second SNAP work requirement penalty would be applied to his benefits for failure to register with WorkForce or meet an exemption. 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-2 and D-6)
- 5) On January 01, 2021, the Appellant's SNAP benefits were terminated due to failure to register with WorkForce or meet an exemption prior to the established deadline. (Exhibits D-2 and D-6)
- 6) The Appellant registered with WorkForce on January 07, 2021. (Exhibit D-8)
- 7) The Appellant notified the DHHR via telephone of his completed WorkForce registration on January 07, 2021. (Exhibit D-8)
- 8) On January 07, 2021, the Appellant verbally requested a Fair Hearing based on the December 16, 2020 Notice of Termination for failure to register with WorkForce or meet an exemption prior to the established deadline. (Exhibit D-8)
- 9) 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 registration requirement.

By notice of decision dated November 10, 2020, the Respondent notified the Appellant that he was required to register with WorkForce or meet an exemption by December 09, 2020, in order to comply with SNAP policy. The November 10, 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 December 16, 2020, when the Appellant failed to register with WorkForce or meet an exemption, the Respondent issued two notices of decision. The notices informed the Appellant that due to failure to register with WorkForce or meet an exemption, a second work

requirement penalty had been applied and the Appellant's SNAP benefits would terminate effective January 01, 2021. 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 or met an exemption, whichever was longer.

The Appellant argued that due to the death of his fiancé – December 25, 2020 – he was without access to his Post Office box. As a result, he was unable to retrieve his mail, and therefore, did not receive the November 10 and December 16, 2020 notices issued by the Department. The Appellant argued that despite having placed several telephone calls to the [REDACTED] County office to update his WorkForce registration, he was unsuccessful in reaching someone. He further testified that due to his inability to speak with someone at the [REDACTED] County office, and because he did not receive a return call, he instead, “had to go through [REDACTED]” to register “around the 25th or 26th” [of December]. However, as evidenced by the Respondent, the Appellant did not actually register with WorkForce and notify the Department of its completion until January 07, 2021, after the WorkForce registration penalty had been implemented.

The Appellant further argued that due to the Covid-19 pandemic, the DHHR office was “locked up” and inaccessible to the public, thus prohibiting him from registering in person. Though when asked what date the Appellant had attempted to register in person at the [REDACTED] County office, the Appellant disclosed that he had not been. The Respondent testified that despite the Covid-19 pandemic, the [REDACTED] County office is open to the public with a worker stationed on the first level from 8:30 am until 5:00 pm daily to assist clients who come in person; however, services are limited to the first floor only. The Respondent further testified that a box is also available from 8:30 am to 5:00 pm daily for clients to leave assistance requests, along with material providing instruction on how to register for WorkForce. Additionally, the WorkForce website is also available for registration purposes; however, the Appellant did not provide an argument for failing to utilize it.

Pursuant to policy, an individual must register with WorkForce by visiting a WorkForce office, or by registering online, yearly, as a condition of eligibility to receive SNAP benefits, unless an exemption is met. If an individual fails to register with WorkForce 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. If the worker discovers that the client has registered before the end of the month the penalty goes into effect, 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.

Because the Appellant 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 his WorkForce registration. Because the Appellant failed to register with WorkForce until January 07, 2021, the Respondent was correct to impose a second SNAP participation penalty.

CONCLUSIONS OF LAW

- 1) The Appellant was required to comply with SNAP work requirements by either registering with WorkForce or meeting an exemption no later than December 09, 2020.
- 2) Because the Appellant failed to register with WorkForce or meet an exemption 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 January 1, 2021.

ENTERED this ____ day of March 2021.

Angela D. Signore
State Hearing Officer