



**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**

March 17, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:21-BOR-1124

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,

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**

[REDACTED],

Appellant,

v.

Action Number: 21-BOR-1124

**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 [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Department of Health and Human Resources' (WVDHHR) Common Chapters Manual. This fair hearing was convened on February 16, 2021, on an appeal filed January 21, 2021.

The matter before the Hearing Officer arises from the January 20, 2021 decision by the Respondent to deny the Appellant's Supplemental Nutrition Assistance Program (SNAP) application due to a third sanction work penalty.

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 printouts of Case Comments, March 31, 2020 through January 26, 2021
- D-2 West Virginia People's Access To Help (WVPATH) Application for SNAP, dated January 12, 2021
- D-3 eRAPIDS computer system screenshot printout of SNAP Work Requirement Penalty Summary, dated June 5, 2020; eRAPIDS computer system screenshot printout of WorkForce WV Registration; and eRAPIDS computer system screenshot printout of SNAP Work Requirement Penalty Request, dated June 5, 2020
- D-4 Notice of Decision, dated January 20, 2021
- D-5 West Virginia Income Maintenance Manual (WV IMM) §§ 14.3 through 14.3.1.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 Nutritional Assistance Program (SNAP) benefits and was required to register with WorkForce West Virginia (WorkForce WV) and notify the DHHR once registration was complete on or before April 30, 2020. (Exhibit D-1)
- 2) The Appellant failed to register with Workforce WV on or before April 30, 2020 and a 12-month SNAP work requirement penalty was applied, from June 1, 2020 through May 31, 2021 (Exhibits D-1 and D-3).
- 3) The Appellant completed WorkForce WV registration on June 5, 2020. (Exhibit D-3)
- 4) On January 12, 2021, the Appellant applied for SNAP benefits. (Exhibit D-2)
- 5) On January 20, 2021, a notice was issued advising the Appellant that her SNAP application was denied effective, January 12, 2021, due to her failure to register with WorkForce WV. (Exhibit D-4)

APPLICABLE POLICY

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

WV IMM § 14.2.1.B Exemptions from SNAP Work Requirements provides in part:

The following SNAP clients are exempt from the SNAP work requirements and are not subject to a SNAP penalty for failure to comply:

- A person under age 16.
- A person age 16 or 17 who is not the SNAP payee or primary person.
- A person enrolled at least half-time in any recognized school, recognized training program, or institution of higher education. If enrolled in an institution of higher education, the student must meet one of the exceptions to the restriction on student participation listed in Section 3.2. This

exemption continues through normal periods of vacation, unless the person does not intend to register for the next term, excluding summer terms.

- A person age 60 or over.
- A parent, or other member of the Assistance Group (AG) who has the responsibility for the care of a child under the age of six, or of an incapacitated and/or disabled individual. The person receiving the care is not required to reside with the AG or be a member of the SNAP AG. Unborn children are not considered children under the age of six.

Separate families included in the same AG may have one person from each family exempted. Separate families, not in the same AG, but living together, may also have one person from each family exempted.

- Individuals receiving Unemployment Compensation Insurance (UCI) from any state. This includes persons receiving benefits under the Trade Readjustment Allotment (TRA). If an individual's UCI benefits are suspended, he becomes subject to the SNAP work requirements when the change is reported, unless a SNAP penalty is applied, or unless exempt for some other reason.

When a client reports the loss of UCI income, the Worker must evaluate the circumstances to determine if a penalty must be applied. A penalty is applied when the individual is exempt from SNAP work requirements due solely to the fact that the client was receiving UCI, unless another exemption is met. Good cause for failure to comply with UCI requirements include all situations described in Section 14.4 for voluntary quit.

- Individuals who are physically or mentally unfit to engage in full-time employment. See Section 13.15.
- Regular participants in a drug addiction or alcoholic treatment and rehabilitation program, either on a resident or non-resident basis. Regular participation is defined by the drug addiction or alcoholic treatment and rehabilitation program.
- Individuals who are employed or self-employed and working a minimum of 30 hours per week, or who are receiving weekly earnings equal to the federal minimum wage multiplied by 30 hours. When the client is employed or self-employed for at least 30 hours per week, no consideration is given to the amount earned.
- Individuals who receive West Virginia Works (WV WORKS) and do not meet any of the other SNAP exemptions listed above, so long as they are subject to, and complying with, a WV WORKS work requirement. These

individuals would be required to meet the SNAP work requirements if they did not receive WV WORKS.

When a client loses eligibility for an exemption, the Worker must determine if the client meets any other exemption criteria prior to imposing a penalty. If the exemption is lost during the certification period and clients are not required to report the change, they become subject to SNAP work requirements at redetermination. However, if the client reports losing the exemption, he becomes subject to SNAP work requirements at the time the change is reported.

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.

Penalties are applied sequentially, regardless of the requirement not met. In addition, penalties are applied consecutively, and one penalty must end before another one is imposed.

WV IMM § 14.5.1.B Non-Voluntary Quit Penalties provided in part:

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. 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. And for the third and subsequent violations, the individual is removed from the AG for twelve (12) months or until he meets an exemption.

DISCUSSION

Policy requires that SNAP recipients register for employment with WorkForce WV within thirty (30) days of benefit application or redetermination approval, unless they meet an exemption. WorkForce WV is an employment referral service operated by the WV Bureau of Employment Programs (WV BEP).

The Appellant was a recipient of SNAP benefits and was required to register with WorkForce WV and notify the DHHR once registration was complete on or before April 30, 2020. On May 1, 2020, the Respondent updated the Appellant's case and applied a penalty for failure to register with WorkForce WV. This was the Appellant's fourth violation of the SNAP work requirement policy. For third and subsequent violations of the SNAP work requirement, policy states that the member must be removed from the AG for a period of 12-months or until she meets an exemption. The Appellant's SNAP work requirement penalty began on June 1, 2020 and continues through May 31, 2021. The Appellant completed WorkForce WV registration on June 5, 2020, however the penalty was already in effect beginning June 1, 2020, and was imposed.

The Respondent testified that on January 12, 2021, the Appellant applied for SNAP benefits. On January 20, 2021, a notice was issued advising the Appellant that her SNAP application was denied effective, January 12, 2021, due to her failure to register with WorkForce WV. The Respondent testified that the Appellant's SNAP application was denied because of the Appellant's current 12-month SNAP work requirement penalty.

The Appellant contended that she registered with WorkForce WV before June 2020. The Appellant indicated that registration was not properly explained to her and that she had to go through two different processes in order to register with WorkForce WV. The Appellant testified that she set up a profile with WorkForce WV and believed she has completed her registration. The Appellant testified that after setting up her profile she received multiple notices from the Respondent indicating that she had not yet registered with WorkForce WV, but disregarded the notices because she believed that she had already registered. The Appellant stated that she finally called the Respondent on June 5, 2020, realized her mistake, and completed her registration with Workforce WV. This Hearing Officer found the Appellant's testimony credible, however she did testify that she received notices and did not take action until after her sanction was in place. It is noted that the placement of the sanction is not the issue of the hearing, but rather the denial of SNAP benefits due to the sanction.

Because the Appellant did not comply with the work requirement prior to the June 1, 2020 deadline and did not have good cause, a SNAP penalty was imposed. Policy stipulates the Appellant is subject to the following penalty for the full 12-month penalty period or until she reports a change which makes her exempt from the work requirements.

CONCLUSIONS OF LAW

- 1) Because the Appellant failed to register correctly with Workforce WV by June 1, 2020, the Respondent imposed a 12-month sanction against the Appellant's receipt of SNAP benefits, effective June 1, 2020.
- 2) Because the Appellant has a penalty imposed against her SNAP benefits through May 31, 2021, the Appellant is ineligible for SNAP benefits until the penalty ends or she meets an exemption.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to deny the Appellant's Supplemental Nutrition Assistance Program (SNAP) application.

ENTERED this ____ day March 2021.

Danielle C. Jarrett
State Hearing Officer