



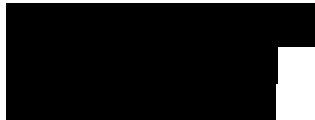
**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF INSPECTOR GENERAL**

**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**

March 30, 2021



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 21-BOR-1184

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-1184**

**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 March 23, 2021, on an appeal filed February 5, 2021.

The matter before the Hearing Officer arises from the January 12, 2021 determination by the Respondent to apply a twelve (12) 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*. Appearing as witnesses for the Appellant was ██████████ (Appellant's wife) and ██████████. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1 West Virginia Department of Health and Human Resources' (WV DHHR) Fair Hearing Request Notification, submitted by Patsy Spence
- D-2 WV DHHR Notice of Decision, dated January 12, 2021
- D-3 WV DHHR Notice of a third sanction, dated January 12, 2021
- D-4 DHHR Drug Use Questionnaire, dated February 25, 2019

**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 for a two (2) person Assistance Group (AG).
- 2) The Appellant did not meet an exemption and was required to register for WorkForce West Virginia (WorkForce).
- 3) On an unknown date in December 2020, the Respondent issued notice of decision to the Appellant informing him that he was required to register with WorkForce and notify the Department of Health and Human Resources (DHHR) once registration was completed. The notice indicated his registration deadline was January 10, 2021.
- 4) On January 12, 2021, the Respondent issued the Appellant two notices of decision informing him that effective February 01, 2021, a SNAP work requirement penalty would be applied to his benefits for failure to register with WorkForce WV. The notices informed him that he would remain ineligible for SNAP benefits for a period of twelve (12) months or until he complied with the registration requirement, whichever was longer. (Exhibits D-2 and D-3)
- 5) The Appellant registered with WorkForce on January 26, 2021.
- 6) On January 28, 2021, a Low Income Energy Assistance Program (LIEAP) application was processed in the Appellant's case.

### **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 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 registration requirement. Pursuant to policy, an individual must register with WorkForce 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.

By notice of decision on an unknown date in December 2020, the Respondent notified the Appellant that he was required to register with WorkForce by January 10, 2021, in order to comply with SNAP policy. The December 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 January 12, 2021, 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, a third work requirement penalty had been applied and the Appellant's SNAP benefits would terminate effective February 01, 2021. The decision notified the Appellant that he would remain ineligible for SNAP benefits for a period of twelve (12) months or until he complied with the registration requirement, whichever was longer.

There was no dispute of the Appellant's sanction count, and there was no testimony indicating the Appellant met an exemption to the registration requirement. However, the Appellant's witness argued that on January 26, 2020, WorkForce registration was completed. Additionally, she testified that despite having placed several telephone calls to the [REDACTED] County DHHR office to

update the Department of the WorkForce registration, they were unsuccessful in reaching someone. The Appellant's witness further testified that due to their inability to speak with someone at the [REDACTED] office, they instead, "called [REDACTED]" to notify of their WorkForce registration completion.

The Respondent testified the Department was unaware of the Appellant's updated WorkForce registration until February 2, 2021, when the Appellant contacted the Department to request an update of his recently submitted LIEAP application and to seek clarification regarding the Department's implementation of a third level SNAP penalty to the Appellant's SNAP benefits. The Respondent testified that because the Appellant failed to update the Department of his WorkForce registration prior to the end of the month in which the adverse notice expired, a third level SNAP penalty had been applied. However, the Respondent stated that because the phone lines are extremely busy due to limited in-office visits during the COVID-19 pandemic, she concurred that the Appellant's testimony was plausible. The Respondent further testified that, in addition, when preparing for this hearing, it was discovered that the Department had independently worked on the Appellant's case on January 28, 2021, in order to process the Appellant's LIEAP application. She testified that, when documenting the LIEAP application to the Appellant's benefits, had the case worker noted the Appellant's WorkForce registration in addition to the LIEAP remarks, the penalty would have been lifted and the Appellant's benefits would have been restored. Additionally, the Respondent requested the Hearing Official to review policy section 14.3 and requested it to be taken into consideration when arriving at a decision.

Pursuant to policy section 14.3, 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. However, by the Respondent's own admission, the case worker should have been attentive of the Appellant's updated WorkForce registration; therefore, lifting the Appellant's penalty and restoring any lost benefits. Because the Appellant's testimony was convincing, and because the Respondent alluded to the Department erring to verify the Appellant's WorkForce registration when processing the Appellant's LIEAP application, the preponderance of evidence verified that the Respondent incorrectly imposed a twelve (12) month SNAP ineligibility penalty on the Appellant.

### **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 January 31, 2021.

- 2) The Appellant registered with WorkForce prior to the SNAP penalty effective date of February 01, 2021.
- 3) The Department had independently accessed the Appellant's case on January 28, 2021, in order to process the Appellant's LIEAP application.
- 4) Because the Department erred to verify the Appellant's WorkForce registration when independently reviewing the Appellant's case, the Respondent incorrectly imposed a twelve (12) month SNAP ineligibility penalty to the Appellant's case.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's action to terminate the Appellant's SNAP benefits and impose a third level sanction. If the Appellant's SNAP benefits were not continued, it is hereby **ORDERED** that the Respondent's SNAP benefits be issued retroactively to the date of termination.

ENTERED this \_\_\_\_ day of March 2021.

---

**Angela D. Signore**  
State Hearing Officer