



**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**

April 16, 2021



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 21-BOR-1331

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 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-1331**

**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 April 7, 2021, on an appeal filed March 8, 2021.

The matter before the Hearing Officer arises from the January 27, 2021 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      Hearing Summary, completed by Patsy Spence, Economic Service Supervisor, ██████████ County DHHR
- 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 and 14.5.1.B
- D-6      WV DHHR Notice of Decision, dated December 17, 2020
- D-7      WV DHHR Notice of Decision, dated January 27, 2021
- D-8      WV DHHR Notice of Decision, dated January 27, 2021
- D-9      WV DHHR Hearing Request Notification submitted by Patsy Spence, dated March 08, 2021

D-10 WV PATH eligibility system printout of Case Comments, dated January 26, 2021 through April 02, 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 December 17, 2020, the Respondent issued a notice of decision to the Appellant advising her 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 January 15, 2021. (Exhibit D-6)
- 3) The Appellant failed to register with WorkForce or meet an exemption prior to the January 15, 2021 deadline.
- 4) On January 27, 2021, the Respondent issued two additional notices of decision to the Appellant informing her that effective March 01, 2021, a second SNAP work requirement penalty would be applied to her benefits for failure to register with WorkForce or meet an exemption prior to the January 15, 2021 deadline. The notices informed the Appellant that she would remain ineligible for SNAP benefits for a period of six (6) months or until she complied with the registration requirement, whichever was longer. (Exhibits D-7 and D-8)
- 5) On March 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 February 04, 2021. (Exhibit D-10)
- 7) On March 08, 2021, the Appellant verbally requested a Fair Hearing based on the January 27, 2021 Notice of Termination for failure to register with WorkForce or meet an exemption prior to the established deadline. (Exhibit D-9)
- 8) 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 December 17, 2020, the Respondent notified the Appellant that she was required to register with WorkForce or meet an exemption by January 15, 2021, in order to comply with SNAP policy. The December 17, 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 27, 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 or meet an exemption, a second work requirement penalty had been applied and the Appellant's SNAP benefits would terminate effective March 01,

2021. The decision notified the Appellant that she would remain ineligible for SNAP benefits for a period of six (6) months or until she complied with the registration requirement or met an exemption, whichever was longer.

The Appellant argued that on February 04, 2021, she placed several telephone calls to the [REDACTED] County office to notify of her WorkForce registration but was unsuccessful in reaching her case worker. She testified that due to her inability to speak with someone at the [REDACTED] County office, she left a voicemail on an unknown caseworker's line notifying of her February 04, 2021, WorkForce registration. The Appellant testified that she again contacted the Department on March 02, 2021, to question why she had not received her benefits on March 01, 2021. At that time, the Department notified the Appellant that because she failed to inform the Department of her WorkForce registration or exemption before the end of the month in which the adverse notice expired, a second work requirement penalty was applied, and her SNAP benefits were terminated effective March 01, 2021 for a period of six (6) months.

The Respondent testified that when performing a system wide search of all telephone calls received in the [REDACTED] County office, she was unable to find record of a call from the Appellant's phone number between the dates of February 04, 2021 through March 01, 2021. Additionally, at the time of the hearing, the Respondent verified the Appellant's phone number and queried the possibility of the Appellant sourcing a different phone/phone number on February 04, 2021 when the Appellant alleged to have notified the Department. The Appellant denied using any other phone/phone number when placing the alleged call. During the hearing, the Respondent performed an additional call log search utilizing the Appellant's verified phone number to ensure the accuracy of her previous searches. At that time, no record of the Appellant's calls could be found.

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.

There is no question that the Appellant registered with WorkForce on February 04, 2021. However, she was required to contact the Department to inform DHHR staff of her registration if she registered after the January 15, 2021 deadline. Because the Respondent did not receive proper notice of the Appellant's WorkForce registration prior to the SNAP penalty imposition, and because no testimony was provided that the Appellant met an exemption, the Department was correct to impose a second SNAP participation penalty. Additionally, because the Appellant did not contest that this is her second SNAP penalty, she must remain ineligible for SNAP benefits for a period of six (6) months.

### **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 January 15, 2021.
- 2) The Appellant was required to notify the local office if she failed to register with WorkForce or met an exemption after the January 15, 2021 deadline, but prior to the effective date of the SNAP penalty of March 01, 2021.
- 3) Because the Appellant completed registration requirements but failed to report it to the Respondent prior to the effective date the adverse action began, the Respondent was correct to impose a SNAP work requirement penalty.
- 4) 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 March 1, 2021.

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

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**Angela D. Signore**  
State Hearing Officer