



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
4190 Washington Street, West
Charleston, West Virginia 25313
304-746-2360
Fax – 304-558-0851**

**Jolynn Marra
Interim Inspector General**

April 9, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:21-BOR-1341

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 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: Darlene Smith, Department Representative

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

[REDACTED],

Appellant,

v.

Action Number: 21-BOR-1341

**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 April 1, 2021, on an appeal filed March 8, 2021.

The matter before the Hearing Officer arises from the February 5, 2021 decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits for failure to complete a redetermination and failure to comply with work requirements.

At the hearing, the Respondent appeared by Darlene Smith, Economic Service Supervisor, WVDHHR. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of Redetermination, dated January 21, 2021
- D-2 Notice of Decision, dated January 5, 2021
- D-3 Notice of Decision, dated February 5, 2021; and Notice of Decision, dated March 10, 2021
- D-4 eRAPIDS computer system screenshot printout of Case Comments, dated February 4, 2021 through March 9, 2021
- D-5 Notice of Decision, dated February 5, 2021
- D-6 West Virginia Income Maintenance Manual (WV IMM) §§ 14.3 through 14.3.1.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 Nutrition Assistance Program (SNAP) benefits.
- 2) On January 5, 2021, the Respondent sent the Appellant a notice of decision informing him that he is required to register with WorkForce West Virginia (WorkForce WV) within thirty (30) days of the date his SNAP review/redetermination was approved. The notice read that the date of his registration deadline was February 3, 2021. (Exhibit D-2)
- 3) On January 21, 2021, the Respondent issued a notice advising the Appellant that his SNAP benefits were due for a review by February 28, 2021, and that the enclosed review form was to be returned by February 1, 2021. The notice indicated that failure to submit the review form by the deadline would result in termination of SNAP benefits after February 28, 2021. (Exhibit D-1)
- 4) The Appellant failed to return his review form by the established deadline and a telephone interview was not conducted on February 3, 2021.
- 5) On February 5, 2021, the Respondent issued the Appellant a notice of decision informing him that a SNAP work requirement penalty would be applied to his benefits for failure to register with WorkForce WV. The notice informed him that it was his third penalty and that he would remain ineligible for SNAP benefits for a period of twelve (12) months or until he complied with the registration requirement or met an exemption. (Exhibit D-3)
- 6) The Respondent applied a third work requirement penalty against the Appellant's SNAP benefits.
- 7) A second notice was issued on February 5, 2021, advising the Appellant that effective, March 1, 2021, his SNAP benefits would terminate due to his failure to complete a review and a SNAP work requirement penalty would be applied to his SNAP benefits for his failure to register with WorkForce WV. (Exhibit D-5)
- 8) The January 5, 2021, January 21, 2021 and February 5, 2021 notices were mailed to the Appellant's reported mailing address of [REDACTED]. (Exhibits D-1 through D-3, and D-5)
- 9) On February 9, 2021, the Appellant reported to the Department a change in his mailing address to [REDACTED]. (Exhibit D-4)

- 10) On March 10, 2021, Respondent issued the Appellant another notice of decision informing him that a SNAP work requirement penalty would be applied to his benefits for failure to register with WorkForce WV. This notice informed him that it was his first penalty and that he would remain ineligible for SNAP benefits for a period of twelve (12) months or until he complied with the registration requirement or met an exemption. (Exhibit D-3)
- 11) This is the Appellant's first violation of the WorkForce WV requirement.
- 12) The Appellant has not registered with WorkForce WV.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WV IMM) § 1.2.2.B reads that periodic review of total eligibility for recipients are mandated by law. These are redeterminations and take place at specific intervals, depending on the program or Medicaid coverage group. Failure by the client to complete a redetermination usually results in ineligibility. If the client completes the redetermination process by a specified program deadline(s) and remains eligible, benefits must be uninterrupted and received at approximately the same time.

WV IMM § 1.4.18.A Redetermination Forms provides in part:

The following methods can be used for redetermination:

- System generated redetermination forms (CSLE or CSLR)
- West Virginia People's Access to Help (WV PATH)
- DFA-2 and DFA-RR-1
- DFA-SNAP-1

The eligibility system automatically mails the CSLE in the last month of the certification period. The form must be completed and returned prior to the scheduled interview date specified on the CSLE/CSLR. The form is considered completed when signed and dated by the client or his authorized representative or completed and submitted by WV PATH.

WV IMM § 1.4.18.C Redetermination Interview provides in part:

An interview is required regardless of the method by which the redetermination is completed. A phone interview is conducted unless the client or his authorized representative requests a face-to-face interview. The Worker must schedule the appointment.

WV IMM § 1.4.18.D Scheduling Interviews provides in part:

When the client does not submit a redetermination form, he is only notified of AG closure.

When an AG submits a complete CSLE/CSLR or WV PATH redetermination after

the originally scheduled interview date, the Worker must schedule another interview appointment. The interview appointment must be scheduling using current system procedures allowing time to provide notice to the client and to conduct the interview.

WV IMM § 1.4.18.E explains that a SNAP redetermination is reapplication for benefits. Under no circumstances are benefits continued past the month of redetermination, unless a redetermination is completed, and the client is found eligible. If the recipient is no longer eligible, the SNAP AG is closed.

WV IMM § 1.4.18.E.1 reads that clients who fail to submit their redetermination form timely, fail to complete an interview, or fail to submit missing verification by the established deadline lose the right to uninterrupted benefits. Uninterrupted benefits are benefits received within 20 days of the last issuance. For longer certifications, uninterrupted benefits are benefits received at the usual time in the issuance cycle.

WV IMM § 1.4.18.E.2 explains when the AG does not submit a redetermination before the end of the certification period, a new application is required. If the CSLE/CSLR is not completed or returned by the end of the certification period, benefits are stopped. Notice of closure is required, but advance notice is not required. If the CSLE is returned in the month after the end of the certification period, no DFA-2 or DFA-SNAP-1 is required for reapplication. The CSLE/CSLR is used as the application form and benefits are prorated from the date the application is received in that month.

WV IMM § 10.4.4.E reads that a change of address is made in the eligibility system as soon as the client reports it. Any other changes in client reports in addition to the address change are also acted on at the same time when notice requirements permit.

WV IMM § 14.2 reads all SNAP clients are subject to a work requirement unless exempt.

WV IMM § 14.3.1.A Registration Requirements provides in part:

All individuals 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 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.

WV IMM § 14.5 explains that a SNAP penalty is imposed when clients do not comply with a work requirement and do not have good cause. When determined 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 provides in part:

An individual 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 Assistance Group (AG) for at least three (3) months or until he meets an exemption, whichever is later.

DISCUSSION

WorkForce WV is an employment referral service operated by the WV Bureau of Employment Programs (WV BEP). Policy requires that SNAP recipients register with WorkForce WV within thirty (30) days of initial approval and every twelve (12) months thereafter, unless they meet an exemption. By notice dated January 5, 2021, the Respondent informed the Appellant that he was required to register by February 3, 2021, in order to comply with SNAP policy. The January 5, 2021 notice reads as follows regarding an individual who registers after the registration deadline but before the sanction begins: “If you do not register by [February 3, 2021], but prior to the end of the month in which the registration is due, you must notify the local office.”

On January 21, 2021, the Respondent issued a notice advising the Appellant that his SNAP benefits were due for a review by February 28, 2021, and that the enclosed review form was to be returned

by February 1, 2021. The notice indicated that failure to submit the review form by the deadline would result in termination of SNAP benefits after February 28, 2021, but if he submitted his review form, a worker would contact him on February 3, 2021, to review his submitted form.

On February 5, 2021, the Respondent issued the Appellant a notice of decision informing him that a SNAP work requirement penalty would be applied to his benefits for failure to register with WorkForce WV. The notice informed him that this was his third penalty and that he would remain ineligible for SNAP benefits for a period of twelve (12) months or until he complied with the registration requirement or met an exemption.

The Respondent testified that she reviewed the Department's case eligibility system and found that the notice issued on February 5, 2021 indicating the Appellant had a third sanction penalty was incorrect. The Respondent further testified the reason the case eligibility system was incorrectly calculating the number of work penalties was because the Appellant registered with WorkForce WV two times prior to the March 2021 sanction. As a result of the error, on March 10, 2021, the Appellant was issued notice advising him that a first penalty sanction was imposed to his SNAP benefits. However, this notice was also incorrect, as it listed that a twelve (12) month sanction was still being applied to the Appellant's SNAP benefits.

A notice was issued on February 5, 2021, advising the Appellant that effective, March 1, 2021, his SNAP benefits would terminate due to his failure to complete a review and a SNAP work requirement penalty would be applied to his SNAP benefits for his failure to register with WorkForce WV. This is the Appellant's first violation of the WorkForce WV requirement. As of the date of this hearing, the Appellant had yet to complete his review or to register with Workforce WV. The Appellant did not dispute that he failed to return his review form.

The Appellant testified that he has moved a lot during the last two (2) years. Prior to reporting his current address to the department on February 9, 2021, the Appellant testified that he had moved two times with three different mailing addresses throughout that time. The Appellant testified that he moved to [REDACTED] address in January or February 2021. The Appellant further testified that he tried to report his change of address every time he moved, but that the Respondent did not answer the telephone or call him back. The Appellant indicated that he has a hard time keeping up with his paperwork and that he failed to return his review form and register with WorkForce WV. The Respondent testified the Appellant's testimony could not be verified and that it was his responsibility to report the address change. The Appellant did not dispute he was responsible for reporting his address change.

The Respondent testified that the January 5, 2021, January 21, 2021, and February 5, 2021 notices were mailed to the Appellant's reported mailing address of [REDACTED]. The Respondent indicated the Department's case eligibility system did not show that the Appellant reported an address of [REDACTED]. The Respondent's evidence shows that the Appellant reported an address change on February 9, 2021. Furthermore, policy stipulates that a change of address is made in the eligibility system as soon as the Appellant reports it.

The Respondent proved by a preponderance of evidence the Appellant failed to submit his review form and register with WorkForce WV prior to the February 28, 2021 deadline.

CONCLUSIONS OF LAW

- 1) Because the Appellant failed to submit his SNAP review form by the set deadline, the Respondent must terminate his SNAP benefits.
- 2) Because the Appellant was required to comply with SNAP work requirements by either registering with WorkForce WV or meeting an exemption no later than February 28, 2021 and the Appellant failed to register, the Respondent was correct to terminate and place a penalty against the Appellant's SNAP benefits.
- 3) The Respondent acted incorrectly to impose a twelve (12) month sanction against the Appellant's SNAP benefits. Because this is the Appellant's first violation of work requirement policy, his SNAP benefits are terminated for a period of three (3) months, or until he meets an exemption, effective March 1, 2021.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to terminate the Appellant's SNAP benefits for failure to complete the required review and the establishment of a work requirement penalty. Additionally, the Department's decision to apply a twelve (12) month SNAP work penalty is hereby **REVERSED**. It is further hereby **ORDERED** that the Department apply a three (3) month SNAP work requirement penalty to the Appellant, effective March 1, 2021.

ENTERED this ____ day of April 2021.

Danielle C. Jarrett
State Hearing Officer