



**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**

July 12, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 21-BOR-1644

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
Brittany Boone, [REDACTED] County DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 21-BOR-1644

**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 June 30, 2021, on an appeal filed May 24, 2021.

The matter before the Hearing Officer arises from the September 17, 2020 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. Appearing as a witness for the Department was Brittany Boone, Economic Service Worker, 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) § 1.4.15
- D-3 WVIMM § 1.2.2.B
- D-4 WVIMM § 1.4.4.A
- D-5 WVIMM § 1.2.4
- D-5 WVIMM § 1.2.11.A
- D-6 WVIMM § 1.2.11.B
- D-7 WVIMM § 1.4.18.C
- D-8 WVIMM § 1.4.18.D
- D-9 WVIMM § 1.4.18.E

- D-10 WVIMM § 1.4.18.E.2
- D-11 WVIMM § 1.4.18.F
- D-12 WVIMM § 2.2.1.C
- D-13 WVIMM § 14.2.1.A
- D-14 WVIMM § 14.2.1.B
- D-15 WVIMM § 14.3
- D-16 WVIMM § 14.3.1.B
- D-17 WVIMM § 14.5.1
- D-19 WV PATH system printout of SNAP Work Requirement Penalty Request, dated May 2009 through July 2009; WV PATH eligibility system printout of Case Comments, dated July 07, 2015; WV PATH system printout of SNAP Work Requirement Penalty Request with Good Cause Granted, dated August 2017 through January 2018; WV PATH eligibility system printout of Case Comments, dated July 18 and July 27, 2017; WV PATH system printout of SNAP Work Requirement Penalty Request with Good Cause Granted, dated October 2018 through September 2019; WV PATH eligibility system printout of Case Comments, dated September 11, 2018; and WV PATH eligibility system printout of Case Comments, dated September 11 through September 13, 2019
- D-20 WV DHHR Notice of Decision, dated June 28, 2018; WV DHHR Notice of Decision, dated August 13, 2018; WV PATH system printout of SNAP Work Requirement Penalty Request, dated October 2020 through September 2021; WV PATH eligibility system printout of Case Comments, dated September 11, 2018; WV PATH eligibility system printout of Case Comments, dated September 17, 2020; and WV DHHR Notice of Decision, dated August 13, 2020
- D-21 WV DHHR Notice of Decision, dated September 18, 2020
- D-22 WV DHHR Notice of Eligibility Review, dated August 17, 2020
- D-23 WV DHHR Notice of Missed Review, dated September 09, 2020
- D-24 WV DHHR Notice of Decision, dated September 18, 2020
- D-25 WV PATH eligibility system printout of Case Comments, dated September 08, 2020, November 24, 2020, May 07, 2021, and March 11, 2021
- D-26 WV PATH eligibility system printout of Data Exchange – SSA Prisoner Match Information, dated November 04, 2020, March 03, 2021, and May 05, 2021
- D-27 Hand Written Confinement Dates for the Appellant
- D-28 WV DHHR Hearing Request Notification submitted by [REDACTED], dated May 25, 2021
- D-29 WV PATH eligibility system printout of SNAP Work Requirement Penalty Summary dated May 2009 through October 2020.
- D-30 WV PATH eligibility system printout of Case Comments, dated May 24, 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 August 13, 2020, the Respondent issued a notice to the Appellant's mailing address of [REDACTED], advising her of the need to register with WorkForce West Virginia (WorkForce) or meet an exemption and notify the WV Department of Health and Human Resources (DHHR) by September 11, 2020. (Exhibits D-1 and D-20)
- 3) The Appellant failed to register with WorkForce or meet an exemption prior to the established deadline.
- 4) On August 17, 2020, the Respondent issued notice to the Appellant's mailing address of [REDACTED], advising her of the need to complete a SNAP periodic eligibility review. Included with the notice was a review form that was to be completed and returned to the Respondent by September 1, 2020. (Exhibit D-22)
- 5) The August 17, 2020, notice advised the Appellant that a telephone interview was scheduled for September 08, 2020, to discuss the information provided on the form. (Exhibit D-22)
- 6) The Appellant failed to return the periodic review form by the September 01, 2020, deadline.
- 7) The Appellant did not complete the SNAP telephone interview scheduled for the September 08, 2020. (Exhibit D-22)
- 8) On September 09, 2020, the Respondent issued a notice advising the Appellant of the missed SNAP interview. The notice further advised that "it is now your responsibility to reschedule the appointment." (Exhibit D-23)
- 9) On September 18, 2020, the Respondent issued two additional notices of decision to the Appellant informing her that effective October 01, 2020, her SNAP benefits would stop, for failure to complete her review and a third SNAP work requirement penalty would be applied to her case for failure to register with WorkForce or meet an exemption prior to the established deadline. The notices informed the Appellant that she would remain ineligible for SNAP benefits for a period of twelve (12) months or until she complied with policy, whichever was longer. (Exhibits D-24 and D-8)
- 10) On October 01, 2020, the Appellant's SNAP benefits were terminated due to failure to complete a review and failure to register with WorkForce, or meet an exemption, prior to the established deadline. (Exhibits D-2, D-8, and D-24)
- 11) This is the Appellant's third violation of the SNAP work requirement. (Exhibit D-21)

12) The Appellant was incarcerated on October 02, 2020.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) § 1.2.2 provides, in part:

Periodic reviews of total eligibility for recipients are mandated by federal 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 will result in termination of benefits. If the client completes the redetermination process by the specified program deadline(s) and remains eligible, benefits must be uninterrupted and received at approximately the same time.

WVIMM § 1.4.15 provides, in part:

Redetermination procedures follow the same procedures as an application. An interview is required unless it is completed by the Social Security Administration (SSA).

WVIMM § 1.4.18.C provides, in part:

An interview is required regardless of the method by which the redetermination is completed.

WVIMM § 1.4.18.D provides, in part:

When the client submits a redetermination, either in person, by mail, fax or WV PATH, but fails to complete a scheduled interview for redetermination, he is notified of the missed interview and that it is his responsibility to reschedule the interview. In addition, he receives notice of AG closure if the redetermination is not completed.

WVIMM § 1.4.18.E provides, in part:

A SNAP redetermination is a 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.

WVIMM § 1.4.18.F provides, in part:

SNAP AGs which are due for redetermination and for whom a redetermination has not been completed are automatically closed by the eligibility system on the adverse action deadline of the month when a redetermination is due. A redetermination is not considered completed until SNAP benefits have been confirmed as approved or denied within the eligibility system.

WVIMM § 7.2.3 provides, in part:

The primary responsibility for providing verification rests with the client. Failure of the client to provide necessary information or to sign authorizations for release of information results in denial of the application or closure of the active case, provided the client has access to such information and is physically and mentally able to provide it.

Failure to provide necessary information may result in the closure of the assistance group (AG).

WVIMM § 14.2 provides, in part:

All SNAP clients are subject to a work requirement unless exempt.

WVIMM § 14.3.1.A 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 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 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 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

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. Policy further requires that SNAP recipients undergo periodic reviews to determine continued eligibility for benefits. SNAP benefits cannot be continued past the month the eligibility redetermination is due, unless the redetermination is completed, and the recipient is found eligible.

On August 13, 2020, the Respondent issued a letter to the Appellant notifying her that she was required to register with WorkForce or meet an exemption and notify the Department by September 11, 2020. On August 17, 2020, the Respondent issued an additional notice to the Appellant advising her of the need to complete a SNAP periodic eligibility review. Included with the notice was a review form that was to be completed and returned to the Respondent by September 1, 2020. The August 17, 2020, notice further advised the Appellant that a telephone interview was scheduled for September 08, 2020, to discuss the information provided on the form.

On September 09, 2020, when the Appellant failed to register with WorkForce or meet an exemption, and September 18, 2020, when the Appellant failed to complete her eligibility review, the Respondent issued two notices of decision informing the Appellant that a third SNAP work requirement penalty had been applied and her SNAP benefits would terminate effective October 01, 2020. The notices informed the Appellant that she would remain ineligible from SNAP participation for a period of twelve (12) months or until she complied with policy, whichever was longer.

The Appellant testified that she had not been receiving mail at the address listed with the Department “for a long time.” When asked if she had reported her inability to retrieve her mail to the Department, the Appellant testified that she was still living at the address but was not retrieving mail due to her own shortcomings. When reviewing the Appellant’s Request for a Hearing, the Appellant listed “was incarcerated and in the hospital during October review.” During the hearing, the Appellant testified that her incarceration begin date was October 02, 2020. However, the Appellant’s WorkForce registration and eligibility redetermination had deadlines in September 2020, prior to the Appellant’s October 02, 2020, incarceration date.

Pursuant to policy, a client who fails to register for WorkForce by the due date established on the notice is subject to a SNAP penalty. The penalty is not imposed, and any lost benefits are restored if, before the end of the month in which adverse notice expires, the client registers with WorkForce and notifies the DHHR that he or she has registered. Additionally, SNAP Assistance Groups (AGs) which are due for redetermination and for whom a redetermination has not been completed are automatically closed by the eligibility system on the adverse action deadline of the month when a redetermination is due.

The evidence demonstrates the Department did comply with policy by sending all notices timely to the address provided by the Appellant and was correct when applying a third SNAP penalty, therefore terminating the Appellant’s SNAP benefits. While the Appellant’s circumstances are unfortunate, the Appellant had a duty to notify the Department of any difficulties she may be experiencing or if she wished her mail to be sent to an alternative address.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, SNAP recipients must register with WorkForce West Virginia yearly and undergo periodic reviews to determine continued eligibility to receive SNAP benefits.
- 2) Because the Appellant failed to register with WorkForce West Virginia or meet an exemption for SNAP purposes by the deadline established by the Respondent, a third penalty was applied to the Appellant's SNAP benefits.
- 3) Because this is the Appellant's third violation of the work requirement, policy requires she be excluded from participation in SNAP for a period of twelve (12) months or until she meets an exemption.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to impose a SNAP work requirement penalty for a period of twelve (12) months effective October 1, 2020.

ENTERED this ____ day of July 2021.

Angela D. Signore
State Hearing Officer