



**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) 352-0805 Fax: (304) 558-1992**

**Jolynn Marra
Interim Inspector General**

September 21, 2021



RE: [REDACTED] v. WV DHHR
ACTION NO.: 21-BOR-1941

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,

Todd Thornton
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Patricia White, Department Representative

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

██████████,

Appellant,

v.

Action Number: 21-BOR-1941

**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' Common Chapters Manual. This fair hearing was convened on September 14, 2021, on an appeal filed August 13, 2021.

The matter before the Hearing Officer arises from the June 23, 2021 decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits due to a work registration sanction.

At the hearing, the Respondent appeared by Patricia White. The Appellant appeared *pro se*. Appearing as a witness for the Appellant was ██████████. All witnesses were sworn and the following documents were admitted into evidence.

EXHIBITS

Department's Exhibits:

- | | |
|-----|---|
| D-1 | Hearing Request Notification form
Pre-Hearing Conference and/or Fair Hearing Request form |
| D-2 | Screen print from WorkForce West Virginia data system, dated August 9, 2021 |
| D-3 | Screen prints of Case Comments regarding the Appellant's case from the Respondent's data system, entries dated January 6, 2021 through August 9, 2021 |

D-4 West Virginia Income Maintenance Manual, Chapter 3 (excerpt)
West Virginia Income Maintenance Manual, Chapter 16 (excerpt)

Appellant's Exhibit:

A-1 Screen print from WorkForce West Virginia data system, dated August 9, 2021

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 SNAP benefits.
- 2) The Respondent mailed the Appellant a notice advising her that she must register for employment with WorkForce West Virginia.
- 3) On or about June 23, 2021, the Respondent mailed the Appellant a notice advising her that a SNAP penalty would be applied for failure to register with WorkForce West Virginia.
- 4) The Appellant registered with WorkForce West Virginia on April 5, 2021.
- 5) The Appellant advised the Respondent that she registered with WorkForce West Virginia on April 5, 2021.

APPLICABLE POLICY

West Virginia Income Maintenance Manual (WVIMM) Chapter §14.2 provides, in part, “All Supplemental Nutrition Assistance Program (SNAP) clients are subject to a work requirement, unless exempt.”

At §14.3, the WVIMM addresses SNAP Work Registration, and at §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.”

The WVIMM, §14.3.1.A also provides, in part:

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. See Section 14.5. The penalty is not imposed, and any lost benefits are restored if, before the end of the month in which the adverse notice expires, the following occurs:

- The client registers; and
- The client notifies the Department of Health and Human Resources (DHHR) that he has registered. If the worker independently discovers before the penalty goes into effect that the client has registered before the end of the month in which the adverse notice expires, 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.

DISCUSSION

The Appellant has appealed the Respondent's decision to implement a work registration sanction resulting in termination of her SNAP benefits. The Respondent must show by a preponderance of the evidence that it properly implemented this work registration sanction.

There was no dispute of the fact that the Appellant was a SNAP recipient subject to a work registration requirement. The Respondent did not provide a copy of the notification letter advising the Appellant of this requirement for evidence in this hearing, but the Appellant did not dispute that she was advised of the work registration requirement. The Respondent's representative presented evidence (Exhibit D-3, entry dated April 30, 2021) that indicated the worker for the Appellant's case had temporarily exempted the Appellant from WorkForce requirements because the worker was "unable to check [WorkForce] system" and because "[WorkForce] systems are not working right now." The Respondent did not provide any notification letter documenting the new deadline for the Appellant's compliance after this "temporary exemption."

Another entry from the Respondent's data system regarding the Appellant's SNAP case (Exhibit D-3, entry dated August 9, 2021) indicated that the Appellant provided a document (Exhibits D-2, A-1) to show her registration that was not accepted by the Respondent worker. This entry reads, in pertinent part, "Client stated today that she registered in April of 2021 [*sic*] however the workforce [*sic*] system and the document she turned in today does not reflect that. Workforce link shows she registered today 8/9/21. Client never called to report that she registered with workforce [*sic*] prior to today, 8/9/21 so the penalty still stands."

The reliability of the Respondent's data sharing with WorkForce West Virginia, and the interpretation of a WorkForce West Virginia document (Exhibits D-2, A-1) is critical to the decision in this matter. The Respondent did not provide evidence or testimony showing why

information from WorkForce West Virginia was unreliable in April 2021 and became reliable at the time of the Respondent's decision to terminate the Appellant's SNAP benefits in June 2021. The Respondent relies on data sharing with WorkForce West Virginia and does not have full access to their data system. The Respondent has provided evidence and testimony in this hearing, and numerous other hearings, regarding ongoing problems with the data sharing between the Respondent and WorkForce West Virginia. For these reasons, the document provided by WorkForce West Virginia (Exhibits D-2, A-1) is considered more reliable than a case comment from the Respondent's worker assigned to the Appellant's case.

Neither the Appellant, nor the Respondent's representative, nor this Hearing Officer are fully qualified to interpret a document from WorkForce West Virginia. No party provided testimony from an expert employed by WorkForce West Virginia to interpret the form, but key elements of the form appear self-explanatory and fully support the Appellant's arguments in this case. On the first page of the document (Exhibits D-2, A-1), the field marked "Last Status Changed Date" showed "08/09/2021" and the Respondent's worker apparently accepted this as proof that the Appellant did not register *before* August 9, 2021. The second page of the document included a section marked "Note Details," which reads, "Called to verify last update: 04/05/2021 and to update MACC file currently. N. Welton". The fields marked "Created Date" and "Last Modified Date," and the printed date shown at the bottom of each page all confirm a change to the Appellant's WorkForce status on August 9, 2021, but this does not preclude an earlier registration by the Appellant, and the "Note details" clearly shows an earlier registration. Finally, the Appellant provided convincing testimony that she registered with WorkForce West Virginia on April 5, 2021 and called the Respondent to advise her worker that she had registered on the same day.

Based on the reliable evidence and testimony from this hearing, the Appellant registered for WorkForce West Virginia as required and informed the Respondent of her registration. The decision by the Respondent to terminate the Appellant's SNAP benefits on this basis cannot be affirmed.

CONCLUSIONS OF LAW

- 1) Because the Appellant complied with the WorkForce work registration requirement and advised the Respondent that she had done so as required, the Respondent was incorrect to impose a sanction.
- 2) Because the sanction cannot be affirmed, the resulting termination of SNAP benefits cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to terminate SNAP benefits based on a SNAP work registration penalty. Any SNAP benefits not continued through the hearing process must be restored to the Appellant.

ENTERED this ____Day of September 2021.

**Todd Thornton
State Hearing Officer**