



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
4190 Washington Street, West
Charleston, WV 25313
Telephone: (304) 352-0805 Fax: (304) 558-1992**

**Bill J. Crouch
Cabinet Secretary**

**Jolynn Marra
Interim Inspector General**

December 10, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 21-BOR-2128

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: Rebecca Skeens, [REDACTED] DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 21-BOR-2128

**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 November 3, 2021, on an appeal filed September 15, 2021.

The matter before the Hearing Officer arises from the July 27, 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 Rebecca Skeens, 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 WV DHHR Notice of Decision, dated June 25, 2021
- D-2 WV PATH eligibility system printout of WorkForce WV Registration for ██████████, dated October 04, 2021
- D-3 WV DHHR Notice of Decision – Work Requirement Penalty, dated July 27, 2021
- D-4 WV DHHR Notice of Decision, dated July 27, 2021
- D-5 West Virginia Income Maintenance Manual (WVIMM) § 14.3.1.A

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 June 25, 2021, 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 July 24, 2021. (Exhibit D-1)
- 3) The Appellant failed to register with WorkForce or meet an exemption prior to the established deadline.
- 4) On July 27, 2021, the Respondent issued two additional notices of decision to the Appellant informing her that effective September 01, 2021, a third SNAP work requirement penalty would be applied to her benefits for failure to register with WorkForce or meet an exemption. 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 the registration requirement, whichever was longer. (Exhibits D-3 and D-4)
- 5) On July 30, 2021, the Appellant contacted the Department via phone regarding her WorkForce Registration and application of a third penalty. During the July 30 phone call, the Appellant was advised that her WorkForce Registration had not been completed.
- 6) The Department provided the Appellant with instructions on how to properly register with WorkForce via electronic mail (e-mail) on July 30 and August 05, 2021.
- 7) On September 01, 2021, the Appellant's SNAP benefits were terminated and a twelve (12) month penalty was applied due to the Appellant's failure to register with WorkForce or meet an exemption prior to the established deadline. (Exhibits D-3 and D-4)
- 8) On September 15, 2021, the Appellant requested a Fair Hearing based on the July 27, 2021 Notice of Termination due to failure to register with WorkForce or meet an exemption prior to the established deadline.
- 9) The Appellant registered with WorkForce on September 27, 2021. (Exhibit D-2)
- 10) This is the Appellant's third violation of the SNAP work requirement. (Exhibit D-3)

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.

By notice of decision dated June 25, 2021, the Respondent notified the Appellant that she was required to register with WorkForce or meet an exemption by July 24, 2021, in order to comply with SNAP policy. On July 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 third work requirement penalty would be applied, and the Appellant's SNAP benefits would terminate effective September 01, 2021. The decision notified the Appellant that she would remain ineligible for SNAP benefits for a period of twelve (12) months or until she complied with the registration requirement or met an exemption, whichever was longer.

The Appellant argued that she completed her WorkForce Registration requirement and contacted the Department Receptionist to report the completion on July 26, 2021. On September 07, 2021, when the Appellant's SNAP benefits were not issued, she testified that she again contacted the Department. At that time, the Appellant was informed that because she failed to complete her WorkForce Registration requirement or meet an exemption by the due date listed on the July 27, 2021 Notice of Decision, a third work requirement penalty would be applied, and SNAP benefits would terminate effective September 01, 2021, for a period of twelve (12) months.

The Respondent testified that no phone calls were received from the Appellant on July 26, 2021. However, the records do reflect that the Appellant contacted the Department via phone on July 30, 2021, regarding the July 27, 2021 Notice of Decision. At that time the Appellant was informed that because she had not completed her WorkForce Registration or met an exemption, a third sanction would be applied, and SNAP benefits would terminate beginning September 01, 2021. The Respondent further testified that subsequent the July 30 phone call, and again on August 05, 2021, the Appellant was provided via e-mail with instructions for how to register with WorkForce; however, the Respondent testified that she failed to register until September 27, 2021. The Appellant suggested that a "time delay" could be cause for the difference in WorkForce Registration dates; however, there was no evidence presented to support the Appellant's allegation.

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.

Although the Appellant argued that she had registered with WorkForce and notified the Respondent of her registration, the policy establishes that WorkForce registration data is verified upon receipt and is not subject to independent verification. Because the Respondent's multiple reviews of the Appellant's WorkForce registration data reflected that the Appellant was not registered with WorkForce for SNAP purposes until September 27, 2021, the preponderance of evidence established that the Respondent acted according to the policy when determining that the Appellant had failed to timely register with WorkForce. Additionally, because the Appellant did not dispute the Department's assessment of two (2) previously served sanctions, the Appellant should have been aware not only of the importance of timely registration; but also, the importance of reporting her WorkForce registration by the registration due date. Because the Appellant failed to register with WorkForce until September 27, 2021, the Respondent was correct to impose a third SNAP participation penalty.

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 July 24, 2021.

- 2) Because the Appellant failed to register with WorkForce or meet an exemption prior to the SNAP penalty imposition, the penalty cannot be removed.
- 3) Because the penalty against the Appellant is a third offense, the Appellant is ineligible for SNAP benefits for a period of twelve (12) 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 twelve (12) months effective September 1, 2021.

ENTERED this ____ day of November 2021.

Angela D. Signore
State Hearing Officer