



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
P.O. Box 1736
Romney, WV 26757
304-822-6900**

**Jolynn Marra
Interim Inspector General**

December 7, 2021

[REDACTED]
[REDACTED]
[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.: 21-BOR-2384

Dear [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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: Emily Smith, WVDHHR

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

██████████,

Appellant,

v.

Action Number: 21-BOR-2384

**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 December 2, 2021, on appeal filed November 16, 2021.

The matter before the Hearing Officer arises from the September 8, 2021, decision by the Respondent to terminate the Appellant's eligibility for Supplemental Nutrition Assistance Program (SNAP) benefits.

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

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.

Department's Exhibits

None

Appellant's Exhibits

None

FINDINGS OF FACT

- 1) The Appellant was a recipient of SNAP benefits.
- 2) The Appellant was required to update his yearly registration with WorkForce West Virginia (WorkForce) by September 5, 2021.
- 3) The Appellant was subject to a third penalty, due to his failure to register with WorkForce, which resulted in a period of ineligibility for SNAP benefits for twelve (12) months.
- 4) The Respondent terminated the Appellant's SNAP benefits, effective September 30, 2021, when work registration requirements were not met.
- 5) Notices included in the Request for Hearing indicate that the Respondent mailed notifications to the Appellant at the address of [REDACTED].
- 6) The Appellant contends he registered with WorkForce on September 26, 2021.

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 14.3.1.A documents:

All SNAP recipients must register for employment with WorkForce West Virginia, within 30 days of the date of the original SNAP approval, unless exempt. Recipients 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 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 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.

West Virginia Income Maintenance Manual § 14.5.1.B documents:

A client who refuses or fails to register with WorkForce West Virginia is subject to the following penalties for the full penalty period or until he reports a change which makes him exempt from the work requirements.

- First violation: The client is removed from the assistance group (AG) for at least three months or until he meets an exemption. If after three months, the client has not complied or met an exemption, the penalty continues until he does comply or meets an exemption for some reason other than Unemployment Compensation Insurance (UCI) related activities.
- Second violation: The client is removed from the AG six months or until he meets an exemption. If after six months, the client has not complied or met an exemption, the penalty continues until he does comply or meets an exemption for some reason other than UCI-related activities.
- Third and subsequent violations: The client is removed from the AG for 12 months or until he meets an exemption. If after the 12 months, the client has not complied or met an exemption, the penalty continues until he does comply or meets an exemption for some reason other than UCI-related activities.

DISCUSSION

Policy governs that to maintain eligibility for SNAP benefits, a recipient must register with WorkForce every twelve (12) months, unless otherwise exempt. The penalty for third and subsequent offenses result in a twelve (12) month disqualification period.

The Respondent's decision to terminate SNAP benefits was based on the Appellant's failure to comply with established WorkForce requirements. The Respondent had to prove by a preponderance of evidence that the Appellant failed to register with WorkForce by September 30, 2021, when adverse notice expired.

Neither party provided evidence for the hearing to support their positions. Emily Smith, Economic Service Worker, testified that multiple notification letters, advising the Appellant of the WorkForce requirements, were issued to the address confirmed during the Board of Review proceedings. The Respondent failed to provide evidence which indicated the number of previous offenses, or the length of penalty applied to the Appellant's benefits. The Appellant testified that he attempted to update his WorkForce registration on September 26, 2021. During the same timeframe, the Appellant indicated that he contracted COVID-19. The Appellant contends that he did not receive notification of the requirement to register with WorkForce, but it was possible that he may have been unaware of their receipt since he was dealing with his illness. The Appellant testified that he became aware of the termination of SNAP benefits in mid-October when he received notification from the Respondent. The Appellant testified that when he inquired with the local WorkForce office regarding the status of his September 2021 registration, he was informed of technical difficulties which may have adversely affected registrations during that timeframe. The Appellant claimed that he notified the Respondent of the complications at WorkForce in October 2021, but received no response.

The Appellant provided convincing testimony that he attempted to update the WorkForce registration on September 26, 2021, prior to "the end of the month in which the adverse notice expires". He later discovered that technical difficulties at the local WorkForce office prevented the successful completion of the task and he immediately notified the Respondent of the issue and received no further communication. Without evidence, the Respondent was unable to refute the Appellant's claims. It is reasonable to conclude that the complications at the local WorkForce office prevented the Appellant from meeting the requirements to maintain his SNAP eligibility. In the absence of evidence to support the Respondent's testimony, the Respondent failed to establish that the Appellant did not comply with the work registration requirements by the due date.

Based on information presented during the hearing, the Respondent's decision to terminate the Appellant's SNAP benefits due to a third sanction work requirement penalty cannot be affirmed.

CONCLUSIONS OF LAW

- 1) To meet yearly work registration requirements with WorkForce West Virginia, the Appellant was required to register prior to September 30, 2021, to maintain his eligibility for SNAP benefits.

- 2) The Appellant complied with the WorkForce work registration prior to end of the month in which the adverse notice expired; therefore, the Respondent was incorrect to impose a sanction against the Appellant's benefits.
- 3) Because the sanction cannot be affirmed, the termination of the Appellant's SNAP benefits cannot be affirmed.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to terminate the Appellant's monthly Supplemental Nutrition Assistance Program allotment.

ENTERED this _____ day of December 2021.

Eric L. Phillips
State Hearing Officer