



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

**Bill J. Crouch**  
Cabinet Secretary

**Board of Review**  
416 Adams Street Suite 307  
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**Jolynn Marra**  
Interim Inspector  
General

January 8, 2021



RE: [REDACTED] v. WVDHHR  
ACTION NO.: 20-BOR-2560

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,

Tara B. Thompson, MLS  
State Hearing Officer  
State Board of Review

Enclosure: Appellant's Recourse  
Form IG-BR-29

cc: Andrew Church, [REDACTED] County DHHR

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

██████████,

**Appellant,**

v.

**ACTION NO.: 20-BOR-2560**

**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 December 30, 2020 on an appeal filed with the Board of Review on November 23, 2020.

The matter before the Hearing Officer arises from Respondent's October 14, 2020 decision to reduce the amount of the Appellant's monthly Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Andrew Church, ██████████ County DHHR. The Appellant appeared *pro se* and was represented by ██████████, member of the Assistance Group (AG). The hearing was scheduled to convene at 9:00 a.m.; however, due to the Respondent's absence, the Hearing Officer and Appellant waited fifteen minutes for the Respondent to arrive before proceeding with the hearing in the Respondent's absence. During the hearing, procedural irregularities occurred regarding the order of case presentation due to the Respondent's significantly delayed appearance and his failure to alert the Hearing Officer of his presence until the Appellant's representative concluded his closing argument. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

None

**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 is a recipient of Adult Medicaid and SNAP benefits for a two-person Assistance Group (AG).
- 2) On October 14, 2020, the Respondent issued a notice advising the Appellant that her SNAP benefits would decrease from \$97 to \$16, effective November 1, 2020, due to the number of eligible household members having decreased.
- 3) The October 14, 2020 notice advised that the Appellant failed to register with WorkForce West Virginia (hereafter, WorkForce).
- 4) On August 28, 2020, a notice was issued advising that the Appellant was required to register with WorkForce by September 26, 2020.
- 5) The August 28, 2020 notice advised that the Appellant was required to contact the local office if the Appellant was physically unable to work.
- 6) The Appellant is 55 years old.
- 7) The Respondent did not issue a verification checklist requesting documentation to establish that the Appellant's medical conditions prevented her from engaging in full-time employment.
- 8) The Respondent did not consider whether the Appellant's reported medical conditions qualified her for an exemption from the SNAP WorkForce registration requirement.
- 9) The Respondent's representative appeared to the hearing twenty-eight minutes after the hearing was scheduled to begin.

### **APPLICABLE POLICY**

**West Virginia Income Maintenance Manual (WVIMM) § 3.2.1.D.1 provides in part:**

Able-Bodied Adults Without Dependents (ABAWD) is a population of individuals who are age 18 or older, but not yet age 50.

**WVIMM §§ 14.2-14.2.1.A provide in part:**

All Supplemental Nutrition Assistance Program (SNAP) clients are subject to a work requirement, and are required to register with WorkForce West Virginia (WorkForce), unless exempt. Failure of an individual to register within the time limits result in application of a penalty for not meeting the work requirement.

**WVIMM § 3.2.1.B.8 provides in part:**

Persons who have been penalized for failure to comply with SNAP work requirements as found in Chapter 14 may not be included in the Assistance Group (AG).

**WVIMM § 14.2.1.B provides in part:**

The following SNAP clients are exempt from the SNAP work requirements and are not subject to a SNAP penalty for failure to comply:

- A person age 60 or over
- Individuals who are physically unfit to engage in full-time employment.

**WVIMM §§ 10.2.1, 10.4.2-10.4.2.B.4 provide in part:**

The need for case maintenance originates from many sources — including the client. All changes reported directly by an Assistance Group (AG) member — communicated by office visit, telephone call, or written statement— must be acted on.

When the Worker cannot readily determine the effect of the reported information on the household's benefit, the Worker must pursue clarification and require verification of unclear information related to the client's report. Additional information requested from the client is due 10 calendar days from the date of the DFA-6 or verification checklist.

**WVIMM § 7.2.4 provides in part:**

When the Worker receives information about the SNAP AG during the certification period that requires additional clarification or verification, the Worker may send a DFA-6 verification checklist or may request, but not require, the client to report to the office for an interview. The Worker must accept any reasonable documentary evidence as verification and must not require a specific kind or source of verification. Verification may be submitted in person, by mail, by fax, or electronically.

**WVIMM § 13.15.3 provides in part:**

A client who does not meet the definition of disability and is not obviously unfit for employment will be requested to provide written verification from a licensed medical professional that the client is unfit for employment.

**DISCUSSION**

The Respondent's representative argued that the AG's monthly SNAP allotment was correctly reduced because of the Appellant's SNAP ineligibility related to her failure to register for WorkForce as required by policy. The Appellant's representative argued that the Appellant should be exempt from the WorkForce requirement due to her medical conditions which render her unable to engage in full-time employment. The Appellant's representative argued that she attempted to comply with the Respondent's requests to register by going to WorkForce in-person but was advised by WorkForce not to register. Further, the Appellant's representative contended that he made multiple unsuccessful attempts to make contact with the Respondent in-person and by telephone to report barriers with her WorkForce registration. During the hearing, the Appellant's representative testified that on multiple occasions, the Respondent had been notified of the Appellant's medical issues which rendered her unable to comply with the SNAP work requirement.

The Respondent bears the burden of proof and had to prove by a preponderance of evidence that the Appellant's SNAP benefits were correctly reduced because the Appellant was ineligible for SNAP benefits due to failing to register with WorkForce as required by policy. To prove that the Appellant was properly required to register with WorkForce, the preponderance of evidence had to verify that the Appellant was ineligible for an exemption.

Upon review of the matter, this Hearing Officer found the Respondent's testimony to be unreliable. While the Respondent was properly noticed of the hearing date and time, the Respondent did not appear to the hearing at the scheduled time. After fifteen minutes of waiting for the Respondent's arrival, the hearing was convened in his absence. Once present to the hearing, the Respondent testified under oath that he had been present at the hearing since 9:16 a.m. However, upon review of the record, the Respondent did not appear to the hearing until 9:28 a.m. This willful attempt to conceal the truth of the Respondent's hearing participation rendered the entirety of the Respondent's testimony as unreliable for consideration in the deliberation of this Hearing Officer. As the Respondent's testimony was unreliable and no documentation was entered as evidence to corroborate the Respondent's testimony, the correctness of the Respondent's decision to reduce the amount of the Appellant's SNAP benefit allotment amount cannot be affirmed.

During the hearing, the Appellant's representative reported confusion regarding the wording of the Respondent's notice which referenced the Able-Bodied Adults Without Dependents (ABAWD) exemption for individuals over fifty years old. Pursuant to the policy, the Appellant is not subject to Able-Bodied Adults Without Dependents (ABAWD) WorkForce registration requirements. While the Appellant was not subject to ABAWD WorkForce registration requirements, the policy does require all SNAP participants to register with WorkForce unless exempt.

The Appellant's representative testified that on multiple occasions since September 2019, she notified the Respondent that the medical conditions that prevented her from complying with the SNAP work requirement were Hemiplegic Migraine —a rare and debilitating condition, Central Tremors, Hypothyroidism, Varicose Veins, Diabetes, Degenerative Disc Disease, and Barrett's Esophagus. No reliable evidence was entered to refute the Appellant's claim that she had reported to the Respondent that she was physically unable to work due to medical conditions. Further, no reliable evidence was entered to verify that the Respondent had ever issued a written request for verification of the Appellant's physical inability to work due to her medical conditions.

As no reliable evidence was entered to refute the Appellant's argument, this Hearing Officer cannot affirm that the Respondent correctly considered the Appellant's eligibility for an exemption from the WorkForce registration requirement. Because the Appellant's eligibility for a SNAP work requirement exemption cannot be ruled out, the Respondent's actions to apply a SNAP ineligibility penalty and reduce the Appellant's monthly SNAP allotment were incorrect.

### **CONCLUSIONS OF LAW**

- 1) When a SNAP client does not meet an exemption and fails to register with WorkForce, as required by policy, a SNAP ineligibility period may be imposed against the client.
- 2) The Respondent's testimony during the hearing was unreliable.
- 3) The preponderance of evidence failed to prove that the Appellant was not exempt from the WorkForce registration requirement.
- 4) The Respondent incorrectly acted to apply a SNAP ineligibility penalty against the Appellant for failure to register with WorkForce.
- 5) The Respondent incorrectly acted to reduce the amount of the Appellant's SNAP benefit allotment, effective November 1, 2020.

## **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to reduce the amount of the Appellant's monthly SNAP benefit allotment. It is hereby **ORDERED** that the Appellant's monthly SNAP benefit allotment amount be restored. The matter is **REMANDED** for proper issuance of a verification checklist and consideration of the Appellant's eligibility for a SNAP work requirement exemption.

ENTERED this 8<sup>th</sup> day of January 2021.

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**Tara B. Thompson, MLS**  
State Hearing Officer