



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
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Charleston, West Virginia 25313
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**Jolynn Marra
Interim Inspector General**

January 26, 2021

[REDACTED]

RE: [REDACTED] v. WVDHHR
ACTION NO.:20-BOR-2653

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,

Danielle C. Jarrett
State Hearing Officer
Member, State Board of Review

Encl: Appellant's Recourse to Hearing Decision
Form IG-BR-29
cc: Tera Pendleton, Department Representative

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

██████████,

Appellant,

v.

Action Number: 20-BOR-2653

**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 January 4, 2020, on an appeal filed December 11, 2020.

The matter before the Hearing Officer arises from the December 8, 2020 decision by the Respondent to reduce the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefit allotment for failure to comply with the work requirement.

At the hearing, the Respondent appeared by Tera Pendleton, Economic Service Worker, West Virginia Department of Health and Human Resources (WVDHHR). The Appellant appeared *pro se*. Appearing as witnesses for the Appellant were ██████████, the Appellant's representative; and ██████████, the Appellant's son. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 eRAPIDS computer system screenshot printout of Case Comments, dated November 4, 2020 through December 15, 2020
- D-2 Notice of Decision, dated November 5, 2020
- D-3 eRAPIDS computer system screenshot printout of SNAP Work Requirement Penalty Summary, dated December 7, 2020; eRAPIDS computer system screenshot printout of SNAP Work Requirement Penalty Request, dated December 7, 2020
- D-4 Notice of Decision, dated December 8, 2020
- D-5 Notice of Decision, dated December 8, 2020
- D-6 West Virginia Income Maintenance Manual (WVIMM) §§ 14.3.1.A through 14.3.1.B; and WV IMM § 14.5.1.B

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 Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant and her son, [REDACTED], were recipients of SNAP benefits.
- 2) On November 5, 2020, the Respondent issued a notice to the Appellant informing her that her son was required to register with WorkForce WV by December 4, 2020 and notify the Department of Health and Human Resources (DHHR) once registration was complete. (Exhibit D-2)
- 3) On December 8, 2020, the Respondent issued the Appellant a notice of decision informing her that a SNAP work requirement penalty would be applied to her benefits for her son's failure to register with WorkForce WV. The notice informed her that he would remain ineligible for SNAP benefits for a period of three (3) months or until he complied with the registration requirement or met an exemption. (Exhibit D-4)
- 4) A second notice was issued on December 8, 2020, advising the Appellant that effective, January 1, 2021, a SNAP work requirement penalty would be applied to her SNAP benefits for her son's failure to register with WorkForce WV and that her SNAP benefits would decrease. (Exhibit D-5)
- 5) The November 5, 2020 and December 8, 2020 notices were mailed to the Appellant's reported mailing address of [REDACTED] and the Appellant's representative's reported mailing address of [REDACTED]. (Exhibits D-2, D-4, and D-5)
- 6) The Appellant's son has not registered with WorkForce WV.
- 7) This is the Appellant's son's first violation of the WorkForce WV requirement. (Exhibit D-3)

APPLICABLE POLICY

WV IMM § 14.2 reads all SNAP clients are subject to a work requirement unless exempt.

WV IMM § 14.3.1.A Registration Requirements provides in part:

All individuals register for employment with WorkForce WV, within thirty (30)

days of the date of the original approval. Individuals must register every twelve (12) months thereafter, regardless of the length of time that WorkForce WV considers the registration valid. The worker must enter the appropriate information in the eligibility system at any point during the certification period when the client is due to register with WorkForce WV. The eligibility system uses this information to send the client the notice to register thirty (30) days prior to the due date. 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.

WV IMM § 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.

WV IMM § 14.5 explains that a SNAP penalty is imposed when clients do not comply with a work requirement and do not have good cause. When determined 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. Penalties are applied sequentially, regardless of the requirement not met.) In addition, penalties are applied consecutively and one penalty must end before another one is imposed.

WV IMM § 14.5.1.B Non-Voluntary Quit Penalties provides in part:

An individual who refuses or fails to register with WorkForce WV, refuses employment, or refuses to provide information about employment status or job availability 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. In the first violation, the individual is removed from the SNAP Assistance Group (AG) for at least three (3) months or until he meets an exemption, whichever is later.

DISCUSSION

Policy requires that SNAP recipients register with WorkForce WV within thirty (30) days of benefit application or redetermination approval, unless they meet an exemption. By notice dated November 5, 2020, the Respondent notified the Appellant that her son was required to register by December 4, 2020, in order to comply with SNAP policy. WorkForce WV is an employment referral service operated by the WV Bureau of Employment Programs (WV BEP).

The November 5, 2020 notice reads as follows regarding an individual who registers after the registration deadline but before the sanction begins: “If you do not register by [December 4, 2020], but prior to the end of the month in which the registration is due, you must notify the local office.”

The Respondent testified that as of December 7, 2020, the Respondent had not received notification that the Appellant’s son had registered with WorkForce WV. On December 8, 2020, the Respondent sent a notice of decision informing the Appellant that a three (3) month sanction was imposed against her son for his failure to register with WV BEP. A second notice was issued on December 8, 2020, advising the Appellant that effective January 1, 2021, her SNAP benefits would decrease due to the imposed sanction.

The Appellant testified that she and her son are unable to read and write. The Appellant’s representative stated that she became the Appellant’s representative on November 4, 2020 and did not receive the notice that the Appellant’s son was required to register with WorkForce WV. However, the parties agreed that the address listed on the notices was correct. Because the Appellant’s reported address and representative’s reported address matched the addresses on the notices, the Respondent complied with notice requirements advising the Appellant to register no later than December 31, 2020.

The Appellant’s son testified that he paid someone to register him with WorkForce WV, but that individual failed to do so. The Appellant’s representative testified the library in [REDACTED] is temporarily closed and the Appellant’s son is unable to receive assistance with using a computer to register for WorkForce WV. The Respondent testified that when the fair hearing request was received, an email was sent to WorkForce WV asking them to contact the Appellant’s son to register. The Appellant’s representative testified she received a voicemail on her telephone from WorkForce WV and when she returned the telephone call, she had no success in getting ahold of a worker to register the Appellant’s son. Although the Appellant and her son did have barriers that made registering with WorkForce WV difficult, the evidence presented indicated that there was ample opportunity given to them to register before the December 31, 2020 deadline.

The Respondent proved by a preponderance of evidence the Appellant’s son failed to register with WorkForce WV prior to the December 31, 2020 deadline. Therefore, the Respondent acted correctly to impose a penalty against the Appellant’s son’s receipt of SNAP benefits.

CONCLUSIONS OF LAW

- 1) The Appellant's son was required to comply with SNAP work requirements by either registering with WorkForce WV or meeting an exemption no later than December 31, 2020.
- 2) The Appellant's son failed to register with WorkForce WV by the December 31, 2020 deadline.
- 3) The Respondent acted correctly to impose a sanction against the Appellant's son and decrease the amount of SNAP benefits for the Appellant, effective January 1, 2021.
- 4) Because this is the Appellant's son's first violation of work requirement policy, his SNAP benefits are terminated for a period of three (3) months, or until he meets an exemption, effective January 1, 2021.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to apply a first offense SNAP work requirement sanction to the Appellant's son, thereby reducing the Appellant's SNAP allotment, effective January 1, 2021.

ENTERED this ____ day of January 2021.

Danielle C. Jarrett
State Hearing Officer