



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW
433 MidAtlantic Parkway
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**Bill J. Crouch
Cabinet Secretary**

**Jolynn Marra
Inspector General**

March 16, 2022

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 22-BOR-1234

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,

Lori Woodward, J.D.
Certified State Hearing Officer
Member, State Board of Review

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

cc: Peter VanKleeck, BCF, [REDACTED] DHHR

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

██████████,

Appellant,

v.

ACTION NO.: 22-BOR-1234

**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 March 15, 2022, on an appeal filed December 10, 2021.

The matter before the Hearing Officer arises from the Respondent's December 10, 2021 decision to close the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Peter VanKleeck, Family Support Supervisor. The Appellant appeared *pro se*. The witnesses were placed under oath and the following documents were admitted into evidence:

Department's Exhibits:

- D-1 Hearing Summary
- D-2 Notice of Decision (CMOB), dated October 14, 2021
- D-3 Notice (EDC1) of closure, dated December 10, 2021
- D-4 Notice of Decision (AE06), dated December 10, 2021
- D-5 Electronic mail from WorkForce to Angela Gaither, dated January 4, 2022
- D-6 West Virginia Income Maintenance Manual, Chapter 3, §3.2.1.A.4

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 was a recipient of SNAP benefits in an Assistance Group (AG) of one.
- 2) On October 14, 2021, the Respondent sent the Appellant a notice to register with WorkForce West Virginia (WorkForce) by November 12, 2021, and to contact the department of the registration or if an exemption from the requirement applied. (Exhibit D-2)
- 3) The Appellant failed to register with WorkForce by November 12, 2021.
- 4) On December 10, 2021, the Respondent sent the Appellant notification that a second work requirement penalty of six months would be applied to her SNAP benefits for failure to register with Workforce and that her SNAP benefits would stop after December 31, 2021. (Exhibits D-3 and D-4)
- 5) This is the Appellant's first SNAP work requirement penalty. (Exhibit D-1)
- 6) On January 4, 2022, the Appellant successfully registered with WorkForce and informed the Respondent after the work requirement penalty was applied to her SNAP benefits. (Exhibit D-1)
- 7) The Appellant must serve a three-month work requirement penalty which ends March 31, 2022.

APPLICABLE POLICY

WV IMM, Chapter 14, 14.3.1.A, in pertinent part, mandates all SNAP recipients register for employment with WorkForce West Virginia, within 30 days of the date of the original SNAP approval, unless exempt. Clients must register every 12 months thereafter, regardless of the length of time that WorkForce West Virginia considers the registration valid.

The Consolidated Work Notice (CWN) is sent to the SNAP AG when an individual(s) is required to register with job service through Workforce WV. The CWN details who must register and the due date of registration. The CWN also explains why the individual(s) is required to register and how to register.

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.

WV IMM, Chapter 14, §14.5, in pertinent part, requires a SNAP penalty must be 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 assistance group (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, Chapter 14, §14.5.1.B, directs that a client who refuses or fails to register with WorkForce West Virginia, refuses employment, or refuses to provide information about employment status and job availability be 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 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 requires that SNAP applicants register with WorkForce within 30 days from the date of an initial SNAP application, unless an exemption is met. The Respondent imposed a work registration penalty against the Appellant when she failed to complete her WorkForce registration within the 30 day timeframe required by policy.

The Respondent notified the Appellant by letter on October 14, 2021, that she was required to register with WorkForce by November 12, 2021, or if she met an exemption listed on the letter, that she must notify the local office. On December 10, 2021, the Respondent imposed a work registration penalty with an effective date of January 1, 2022, when it was determined that her work registration had not been completed. The Appellant subsequently registered with WorkForce on January 4, 2022, after the effective date of the penalty. Policy directs that once a work registration penalty is imposed, the minimum penalty period must be served or until the recipient reports an exemption.

The Appellant testified that she made several attempts in November to contact her worker and left multiple voice messages. The Appellant believed that because she had not applied for unemployment benefits, WorkForce did not accept her registration. However, policy explains that actions which constitute a registration are defined by WorkForce West Virginia and the eligibility system must: match with WorkForce West Virginia; match the date returned from WorkForce West Virginia as more than 12 months old; 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; or match with WorkForce West Virginia with active job status and no job preference - the client must choose a job preference to be considered registered. Policy does not require unemployment registration to be made in order to be considered registered for WorkForce to meet SNAP work requirements.

The Appellant did not become recognized as registered with WorkForce until January 4, 2022, after a three-month SNAP work requirement penalty was imposed. The Respondent's representative, Peter VanKleeck, testified that the December 10, 2021 work requirement penalty notice incorrectly listed that the Respondent was imposing a second penalty, equating to a six-month SNAP ineligibility. Mr. VanKleeck explained that this is the Appellant's first SNAP work requirement penalty.

Because the Appellant was not registered with WorkForce until after the imposition of the work requirement penalty, and does not meet an exemption, the penalty period of three-months for this

first penalty must be served. The Appellant is eligible to reapply for SNAP benefits for the month of April 2022. The Respondent's decision to impose a first work requirement penalty of three-months is affirmed.

CONCLUSIONS OF LAW

- 1) Policy requires that a SNAP applicant register with WorkForce within 30 days of the date of the initial SNAP application, or meet an exemption, to continue receiving SNAP benefits.
- 2) Once a work registration penalty is imposed, the minimum penalty period must be served or until the applicant reports an exemption.
- 3) The Appellant failed to register with WorkForce or report an exemption prior to the effective date of the work registration penalty.
- 4) The Respondent correctly imposed a work registration penalty effective January 1, 2022.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to impose a first work requirement penalty to the Appellant's SNAP benefits.

ENTERED this 16th day of March 2022

Lori Woodward, Certified State Hearing Officer