



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

**Bill J. Crouch
Cabinet Secretary**

**BOARD OF REVIEW
433 MidAtlantic Parkway
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**Jolynn Marra
Inspector General**

Esta es la decision de su Audiencia Imparcial. La decision del Departamento ha sido confirmada/invertido/remitido. Si usted tiene preguntas, por favor llame a Keyla Dominquez, 304-267-0100

June 14, 2022

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 22-BOR-1638

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-1638

**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 June 7, 2022, on an appeal filed May 9, 2022.

The matter before the Hearing Officer arises from the Respondent's April 11, 2022 decision to apply a third sanction against the Appellant for failure to register with WorkForce West Virginia (WFWV) resulting in the closure of 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 Combined Work Notice (CWN1), dated March 3, 2022
- D-3 Notice of Closure (EDC1), dated April 11, 2022
- D-4 Notice of Decision (AE06), dated April 11, 2022
- D-5 Screen shot of Appellant's eRapids WorkForce WV Registration information page
- D-6 Electronic mail response from Melissa Moore Hobbs, WorkForce WV, to Peter VanKleeck, dated May 16, 2022
- D-7 West Virginia Income Maintenance Manual, Chapter 14, §14.3
- D-8 West Virginia Income Maintenance Manual, Chapter 14, §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) On March 3, 2022, the Respondent sent the Appellant a notice that he must follow basic work rules to continue receiving SNAP benefits, specifically, that he must register with job service (WFWV) by April 1, 2022, and to notify the Department that he has registered. (Exhibit D-2)
- 2) On April 11, 2022, the Respondent determined that the WFWV system did not show the Appellant as registered with WFWV. (Exhibits D-1 and D-5)
- 3) On April 11, 2022, the Respondent sent the Appellant notification that a third work requirement penalty of twelve months would be applied to his SNAP benefits for failure to register with WFWV and that his SNAP benefits would stop after April 30, 2022. (Exhibits D-3 and D-4)
- 4) The Appellant did not contest that this is his third SNAP work requirement penalty. (Exhibit D-1)
- 5) On May 11, 2022, the Appellant successfully registered with WFWV and informed the Department of his registration after the work requirement penalty was applied to his SNAP benefits. (Exhibit D-1)
- 6) The Appellant brought this appeal averring he did register online with WFWV two days after his SNAP interview and that a WFWV computer glitch was responsible for not updating his status.

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 WFWV. 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 that 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 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 for 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 WFWV within 30 days from the date of a SNAP application or after completing a yearly review unless an exemption is met. The Respondent imposed a work registration penalty against the Appellant when he failed to complete his WFWV registration within the 30 day timeframe required by policy.

The Respondent notified the Appellant by letter (CWN) on March 3, 2022, that he was required to register with WFWV by April 1, 2022 and that he must notify the Department when registration has been completed. On April 11, 2022, the Respondent imposed a third work registration penalty with an effective date of May 1, 2022, when it was determined that the Appellant had not registered with WFWV. The Appellant registered successfully with WFWV on May 11, 2022, after the effective date of the penalty. Policy requires that once a work registration penalty is imposed, the minimum penalty period must be served or until the recipient reports an exemption. No exemption has been offered or established by the Appellant. The Appellant did not dispute the fact that this is his third work requirement penalty.

The Appellant testified that he registered online with WFWV two days after his SNAP interview. However, policy requires that an individual inform the Department after registering with WFWV. The Appellant did not do so. The Appellant contended that at the SNAP interview, the worker told him that if he did not register with WFWV, his SNAP benefits would immediately be terminated. Thus, the Appellant argued he was under the belief that because he continued to receive SNAP benefits, he thought the WFWV registration was successful. The Appellant unconvincingly testified that on May 11, 2022, he spoke with someone at WFWV who told him that a computer glitch caused his information not to update in their computer system.

The Appellant did not become recognized as registered with WFWV until May 11, 2022, after a twelve-month SNAP work requirement penalty was imposed. The Respondent's representative, Peter VanKleeck, testified that he contacted WFWV after a pre-hearing conference with the

Appellant to determine if WFWV showed an earlier registration date for the Appellant. None was found.

Because the Appellant was not registered with WFWV until after the imposition of the work requirement penalty, and he does not meet an exemption, the penalty period of twelve-months for this third penalty must be served. The Respondent's decision to impose a third work requirement penalty of twelve-months is affirmed.

CONCLUSIONS OF LAW

- 1) Policy requires that a SNAP applicant register with WFWV within 30 days of the date of the initial SNAP application or meet an exemption.
- 2) Once a work registration penalty is imposed, the minimum penalty period must be served or until an exemption is met.
- 3) The Appellant failed to register with WFWV or report an exemption prior to the effective date of the work registration penalty.
- 4) This is the Appellant's third work requirement penalty.
- 4) The Respondent correctly imposed a twelve-month work registration penalty effective May 1, 2022.

DECISION

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

ENTERED this 14th day of June 2022

Lori Woodward, Certified State Hearing Officer