



**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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**Sheila Lee  
Interim 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**

November 2, 2022

[REDACTED]

RE: [REDACTED] v. WV DHHR  
ACTION NO.: 22-BOR-2215

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, BFA, [REDACTED] DHHR

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

[REDACTED],

**Appellant,**

v.

**ACTION NO.: 22-BOR-2215**

**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 [REDACTED]. 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 November 1, 2022, on an appeal filed September 28, 2022.

The matter before the Hearing Officer arises from the Respondent's August 29, 2022 decision to apply a second work requirement penalty against the Appellant for failure to register with WorkForce West Virginia (WFWV).

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 June 29, 2022
- D-3 Notice of Reduction (EDR1), dated August 10, 2022
- D-4 Notice of Decision (AE06), dated August 10, 2022
- D-5 eRapids Case Comments screen print from August 9 to October 4, 2022
- D-6 eRapids Transaction Logs screen print from August 9 to September 29, 2022
- D-7 eRapids SNAP Work Requirement Penalty Summary screen print
- D-8 West Virginia Income Maintenance Manual, Chapter 14, §14.3.A
- D-9 West Virginia Income Maintenance Manual, Chapter 14, §14.5.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 June 29, 2022, the Respondent sent notice to the Appellant that she must follow basic work rules or meet an exemption to continue receiving SNAP benefits. Specifically, the notice informed the Appellant that she must register with job service (WFWV) by July 28, 2022 and notify the Department of her registration. (Exhibit D-2)
- 2) On August 10, 2022, the Respondent determined that the WFWV system did not show the Appellant as registered with WFWV. (Exhibit D-1)
- 3) On August 10, 2022, 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 WFWV or meet an exemption and that her SNAP benefits would be reduced effective September 1, 2022. (Exhibits D-3 and D-4)
- 4) On August 22, 2022, the Appellant contacted the Respondent's customer service center regarding her work registration penalty and reported a possible exemption due to participating in a non-residential drug/alcohol treatment program. (Exhibit D-5)
- 5) On August 23, 2022, the Appellant registered for WFWV; however, failed to report her registration to the Respondent prior to the penalty being applied.
- 6) This is the Appellant's second work requirement penalty. (Exhibit D-7)

**APPLICABLE POLICY**

***WV IMM, Chapter 14, 14.3.1.A, Registration Requirements***, 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.

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, §14.2.1.B, *Exemptions from SNAP Work Requirements***, in pertinent part, exempts regular participants in a drug addiction or alcoholic treatment and rehabilitation program, either on a resident or non-resident basis. Regular participation is defined by the drug addiction or alcoholic treatment and rehabilitation program.

**WV IMM, Chapter 14, §14.5, *SNAP Work Requirement Penalties***, 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, *Non-Voluntary Quit Penalties***, 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 she failed to complete her WFWV registration within the 30 day timeframe required by policy.

The Respondent notified the Appellant by letter (CWN1) on June 29, 2022, that she was required to register with WFWV by July 28, 2022, and that she must notify the Department when registration had been completed. On August 10, 2022, the Respondent imposed a second work registration penalty with an effective date of September 1, 2022, when it was determined that the Appellant had not registered with WFWV. Policy requires that once a work registration penalty is imposed, the minimum penalty period must be served or until the recipient establishes an exemption.

The Appellant testified that after attempting to contact her local DHHR office, she called the customer service center on August 22, 2022, regarding her work requirement penalty. Although the Appellant reported that she was in a non-residential drug/alcohol treatment program, the customer service representative advised her that she did not qualify for an exemption and that she needed to register with WFWV prior to September 1, 2022 and submit verification that she did so. On August 23, 2022, the Appellant completed her work registration at WFWV. The Appellant testified that WFWV explained to her that because work registration was done on-line, no other verification is provided. The Appellant stated she tried contacting the local DHHR office but was unable to leave a message for a worker, stating that she got a message that the number she called was the Department of Agriculture. The Appellant testified that she called the customer service center after her registration but was uncertain of the date. The evidence presented, however, showed that the Appellant contacted the customer service center on September 19, 2022. There is no record of the Appellant having tried to contact the local office between August 23, 2022 and September 1, 2022.

The Appellant provided testimony regarding her non-residential drug/alcohol treatment program stating that she attended a total of seven hours each week with an additional one hour one-on-one session twice a month. The evidence did show that she mentioned that she was in a drug/alcohol treatment program to the customer service representative in her conversation on August 22, 2022. The evidence presented showed that the customer service representative failed to act on the Appellant's assertion of a possible exemption and erroneously stated that out-patient (non-residential) drug/alcohol treatment programs do not qualify for an exemption.

Policy does allow those who are in a drug/alcohol treatment program either residential or non-residential to possibly meet an exemption from work registration requirements. Policy refers to the definition of regular participation by the drug/alcohol treatment program in order to meet an exemption. Policy is clear that the program participation can be either as a resident or non-resident. The testimony and evidence showed that the Appellant reported that she was participating in a non-residential drug/alcohol treatment program prior to the imposition of the work registration penalty. The Respondent should have given the Appellant an opportunity to determine whether

the Appellant's participation in the drug/alcohol treatment program met policy requirements for an exemption to work registration.

### **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 contacted the customer service center prior to the imposition of the work registration penalty asserting that she was in a non-residential drug/alcohol treatment program.
- 4) Policy allows an exemption from work registration for individuals who are regular participants in a drug/alcohol treatment program, either on a resident or non-resident basis.
- 5) Regular participation is defined by the drug addiction or alcoholic treatment and rehabilitation program.
- 6) Because the Appellant was not given the opportunity to establish the reported exemption, the Respondent's decision to impose a work requirement penalty cannot be affirmed.

### **DECISION**

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to impose a second work requirement penalty to the Appellant's SNAP benefits. The case is **REMANDED** to determine if the Appellant qualifies for the drug/alcohol treatment program participation exemption.

**ENTERED this 2<sup>nd</sup> day of November 2022**

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Lori Woodward, Certified State Hearing Officer