



**STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of the Inspector General
Board of Review**

**Jeffery H. Coben, MD
Interim Cabinet Secretary**

**Sheila Lee
Interim Inspector General**

March 8, 2023



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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

Cc: Brittany Boone, WVDHHR

Encl: Recourse to Hearing Decision
Form IG-BR-29

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

[REDACTED],

Appellant,

v.

Action Number: 23-BOR-1233

**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 March 8, 2023, on an appeal filed February 14, 2023.

The matter before the Hearing Officer arises from the January 18, 2023, decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits due to her failure to comply with work registration requirements.

At the hearing, the Respondent appeared by Brittany Boone, Economic Service Worker. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Hearing Summary
- D-2 West Virginia Income Maintenance Manual § 14.2
- D-3 West Virginia Income Maintenance Manual § 14.2.1
- D-4 West Virginia Income Maintenance Manual § 14.3
- D-5 West Virginia Income Maintenance Manual § 14.5
- D-6 Notice of SNAP Work Rules dated December 16, 2022
- D-7 Notice of Decision dated January 18, 2023
- D-8 Notice of Sanction dated January 18, 2023

- D-9 Case Comments dated January 17, 2023
- D-10 SNAP Work Requirement Penalty Summary
- D-11 Work Registration Details
- D-12 Case Comments dated February 16, 2023

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.
- 2) On December 16, 2022, the Respondent issued notice to the Appellant informing her of the requirement to register with WorkForce West Virginia (WorkForce) (Exhibit D-6) by January 14, 2023.
- 3) The Appellant did not provide the requested WorkForce registration prior to the deadline date.
- 4) On January 18, 2023, the Respondent issued notice to the Appellant documenting that a six-month penalty had been applied to her SNAP benefits for failing to provide the requested WorkForce registration. (Exhibit D-8)
- 5) On January 18, 2023, the Respondent issued notice informing the Appellant that SNAP benefits would terminate effective February 1, 2023, for failing to provide the requested WorkForce registration. (Exhibit D-7)
- 6) The Appellant has one previous sanction for failing to register with WorkForce.
- 7) The Appellant registered with WorkForce on February 14, 2023. (Exhibit D-11)

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 14.3.1.A documents:

All SNAP recipients must register for employment with WorkForce West Virginia, within 30 days of the date of the original SNAP approval, unless exempt. Recipients must register every

12 months thereafter, regardless of the length of time that WorkForce West Virginia considers the registration valid. 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.

West Virginia Income Maintenance Manual § 14.5.1.B documents:

A client who refuses or fails to register with WorkForce West Virginia is 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 assistance group (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.

Code of Federal Regulations 7 CFR §273.7 describes work requirements and SNAP:

(a) Work requirements

(1) As a condition of eligibility for SNAP benefits, each household member who is not exempt under paragraph (b)(1) of this section must comply with the following SNAP work requirements:

(i) Register for work or be registered by the State agency at the time of application and every 12 months after initial registration. The member required to register need not complete the registration form.

(ii) Participate in a Food Stamp Employment and Training (E&T) program if assigned by the State agency, to the extent required by the State agency;

(iii) Participate in a workfare program if assigned by the State agency;

(iv) Provide the State agency or its designee with sufficient information regarding employment status or availability for work;

(v) Report to an employer to whom referred by the State agency or its designee if the potential employment meets the suitability requirements described in paragraph (h) of this section;

(vi) Accept a bona fide offer of suitable employment, as defined in paragraph (h) of this section, at a site or plant not subject to a strike or lockout, at a wage equal to the higher of the Federal or State minimum wage or 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act been applicable to the offer of employment.

(vii) Do not voluntarily and without good cause quit a job of 30 or more hours a week or reduce work effort to less than 30 hours a week, in accordance with paragraph (j) of this section...

(3) Each State agency will determine the meaning of any other terms used in paragraph (a)(1) of this section; the procedures for establishing compliance with SNAP work requirements; and whether an individual is complying with SNAP work requirements. A State agency must not use a meaning, procedure, or determination that is less restrictive on SNAP recipients than is a comparable meaning, procedure, or determination under the State agency's program funded under title IV-A of the Social Security Act.

(c) State Agency Responsibilities

(1)(i) The State agency must register for work each household member not exempted by the provisions of paragraph (b)(1) of this section. The State agency must permit the applicant to complete a record or form for each household member required to register for employment in accordance with paragraph (a)(1)(i) of this section. Household members are considered to have registered when an identifiable work registration form is submitted to the State agency or when the registration is otherwise annotated or recorded by the State agency.

(ii) During the certification process, the State agency must provide a written notice and oral explanation to the household of all applicable work requirements for all members of the household and identify which household member is subject to which work requirement. These work requirements include the general work requirement in paragraph (a) of this section, mandatory E&T in paragraph (a)(1)(ii) of this section, and the ABAWD work requirement at §273.24. The written notice and oral explanation must be provided in accordance with (c)(1)(iii) of this section. This written notice and oral explanation must also be provided to the household when a previously exempt household member or a new household member becomes subject to these work requirements, and at recertification.

(iii) The consolidated written notice must include all pertinent information related to each of the applicable work requirements, including: An explanation of each applicable work requirement; which individuals are subject to which work requirement; exemptions from each applicable work requirement; an explanation of the process to request an exemption (including contact information to request an exemption); the rights and responsibilities of each applicable work requirement; what is required to maintain eligibility under each applicable work requirement; pertinent dates by which an individual must take any actions to remain in compliance with each applicable work requirement; the consequences for failure to comply with each applicable work requirement; an explanation of the process for requesting good cause (including examples of good cause circumstances and contact information to initiate a good cause request); and any other information the State agency believes would assist the household members with compliance.

(f)(2) Disqualification periods. The following disqualification periods will be imposed:

(i) For the first occurrence of noncompliance, the individual will be disqualified until the later of:

(A) The date the individual complies, as determined by the State agency; (B) One month; or (C) Up to three months, at State agency option.

(ii) For the second occurrence, until the later of: (A) The date the individual complies, as determined by the State agency; (B) Three months; or (C) Up to six months, at State agency option. **(iii)** For the third or subsequent occurrence, until the later of: (A) The date the individual complies, as determined by the State agency; (B) Six months; (C)

A date determined by the State agency; or (D) At the option of the State agency, permanently.

DISCUSSION

Federal regulations govern that to maintain eligibility for SNAP benefits, a recipient must register with WorkForce every 12 months, unless otherwise exempt. The penalty for failing to register with WorkForce is removal from the assistance group for three months for the first offense, removal from the assistance group for six months for the second offense, and removal from the assistance group for twelve months for all third and subsequent violations. All penalties remain in effect until the individual complies with or meets an exemption to the work requirements.

The Respondent had to prove by a preponderance of the evidence that the Appellant failed inform the Respondent of her registration with WorkForce, or meet an exemption to the requirement, by January 31, 2023, the month prior to the effective date of the termination of SNAP benefits.

On December 16, 2022, the Respondent issued notice to the Appellant informing her of the requirement to provide verification of her WorkForce registration by January 14, 2023. The Appellant did not provide the requested verifications by the due date, resulting in a termination of SNAP benefits effective January 31, 2023.

The Appellant contends that she did not receive the notifications from the Respondent. The Appellant related that she understands the work registration requirements and completed her WorkForce registration on February 14, 2023.

Based on a review of the evidence, the Respondent properly notified the Appellant of the responsibility to meet the work requirement and the imposition of a penalty which resulted in the six-month termination of SNAP benefits. While the Appellant registered with WorkForce on February 14, 2023, she did not complete the task prior to the imposition of the sanction. Because the Appellant failed to comply with the work registration requirements prior to the sanction imposition date of January 31, 2023, the Respondent was correct in its decision to terminate SNAP benefits.

CONCLUSIONS OF LAW

- 1) SNAP recipients must meet work registration requirements with WorkForce West Virginia yearly to maintain eligibility for the program.
- 2) A penalty was applied to the Appellant's SNAP benefits when she failed to meet the SNAP work registration requirements prior to the penalty imposition dated of January 31, 2023.
- 3) The Appellant is ineligible to receive SNAP benefits until the minimum penalty is served or an exemption is met.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program benefits.

ENTERED this ____ day of March 2023.

Eric L. Phillips
State Hearing Officer