



**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**

**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 304-267-0100.**

**Sheila Lee
Interim Inspector General**

May 16, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-1343

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: Recourse to Hearing Decision
Form IG-BR-29

cc: Sandra Brown, BFA, WV DHHR

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

██████████,

Appellant,

v.

Action Number: 23-BOR-1343

**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 May 9, 2023.

The matter before the Hearing Officer arises from the February 9, 2023 decision by the Respondent to apply a second work requirement penalty 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 Sandra Brown, Family Support Services 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 January 9, 2023
- D-3 Notice of Closure (EDC1), dated February 9, 2023
- D-4 Notice of Decision (AE06), dated February 9, 2023
- D-5 Self Employment Report February 2023
- D-6 West Virginia Income Maintenance Manual, Chapter 14, §14.2.1.B
- D-7 West Virginia Income Maintenance Manual, Chapter 14, §14.3

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 January 9, 2023, the Respondent issued notice to the Appellant informing her of the requirement to register with WFWV or establish an exemption by February 7, 2023. (Exhibit D-2)
- 3) The Appellant did not register with WFWV or establish an exemption prior to the deadline.
- 4) On February 9, 2023, the Respondent issued notice to the Appellant that a six-month penalty had been applied to her SNAP benefits for failing to register with WFWV or establish an exemption. (Exhibit D-4)
- 5) On February 9, 2023, the Respondent sent notification to the Appellant that she would receive the last of her SNAP benefits as of February 28, 2023, for failing to register WFWV or establish an exemption. (Exhibit D-3)
- 6) This is the Appellant's second work requirement penalty.
- 7) The Appellant registered with WFWV on March 2, 2023, after the penalty was imposed.
- 8) The Appellant submitted a self-employment report for February 2023, which was scanned on March 6, 2023 by the local office, showing a total of 80 hours worked for the month of February.
- 9) The Appellant did not meet an exemption.
- 10) The Appellant's mailing address on record is correct.

APPLICABLE POLICY

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.

West Virginia Income Maintenance Manual §14.3.1.A states all individuals must register for employment with WorkForce West Virginia, within 30 days of the date of the original 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 Supplemental Nutrition Assistance Program (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.

West Virginia Income Maintenance Manual §14.5.1.B states 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 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/she meets an exemption. If after three months, the client has not complied or met an exemption, the penalty continues until he/she 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/she meets an exemption. If after six months, the client has not complied or met an exemption, the penalty continues until he/she 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 twelve months or until he/she meets an exemption. If after 12 months, the client has not complied or met an exemption, the penalty continues until he/she does comply or meets an exemption for some reason other than UCI-related activities.

WV IMM, Chapter 14, §14.2.1.B, *Exemptions from SNAP Work Requirements*, in part, states:

- Individuals who are employed or self-employed and working a minimum of 30 hours per week, or who are receiving weekly earnings equal to the federal minimum wage multiplied by 30 hours. When the client is employed or self-employed for at least 30 hours per week, no consideration is given to the amount earned.
- ...
- Individuals who are physically or mentally unfit to engage in full-time employment. See Section 13.15.

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 or establish an exemption.

The Respondent notified the Appellant by letter (CWN1) on January 9, 2023, that she was required to register with WFWV by February 7, 2023 or establish an exemption. On February 9, 2023, the Respondent imposed a second work registration penalty with an effective date of March 1, 2023, 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. This is the Appellant's second work requirement penalty.

The Appellant testified that she has been experiencing difficulty with receiving her mail. Although the address on file is correct, the Appellant contended that there is a cluster of mail boxes which she believes is responsible for her mail being misdelivered, stating she has been having this issue for some time. The testimony presented from the Appellant showed that aside from complaining to the Post Office, the Appellant has not taken any viable steps to ensure she receives her mail

properly, which is the Appellant's responsibility. The Respondent correctly sent notification to the Appellant in three separate letters. The Appellant's contention that she never received any of the work requirement penalty notifications is unconvincing.

The Appellant testified that on March 1, 2023, she was prompted to call the Respondent's customer service center because of the letter she did receive regarding the closure of emergency SNAP allotments. On March 2, 2023, the Appellant did register with WFWV, however, this was after the work requirement penalty was imposed. Additionally, On March 6, 2023, the Appellant submitted a self-employment report for the month of February 2023, showing a total of 80 hours worked on her new business for that month. To be eligible for the self-employment exemption, an individual must work at least 30 hours a week. The Appellant did not meet an exemption.

The Appellant also averred that she cannot work due to her Attention Deficit Hyperactivity Disorder and Post Traumatic Stress Syndrome. However, there was no evidence presented showing that the Respondent was notified of this possible exemption.

The Appellant failed to register with WFWV prior to the imposition of the work requirement penalty. This is the Appellant's second work requirement penalty. Therefore, the Respondent's imposition of a six month work requirement penalty against the Appellant is affirmed.

CONCLUSIONS OF LAW

- 1) SNAP recipients must meet work registration requirements with WorkForce West Virginia yearly to maintain eligibility for the program.
- 2) Because the Appellant failed to meet SNAP work registration requirements prior to the penalty imposition date of February 28, 2023, a penalty was applied.
- 3) Because this is the Appellant's second work registration penalty, a six-month penalty period must be applied which must be served or until an exemption is met.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the imposition of a six month work registration penalty.

ENTERED this 16th day of May 2023.

Lori Woodward, Certified Hearing Officer