



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

**Sherri A. Young, DO, MBA, FAAFP
Interim Cabinet Secretary**

**Sheila Lee
Interim Inspector General**

July 12, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-2073

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,

Kristi Logan
Certified State Hearing Officer
Member, State Board of Review

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

cc: Rena Lawless, [REDACTED] DHHR

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

████████████████████,

Appellant,

v.

Action Number: 23-BOR-2073

**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 July 11, 2023, on an appeal filed June 22, 2023.

The matter before the Hearing Officer arises from the April 27, 2023, decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Rena Lawless, Economic Services Supervisor. The Appellant was self-represented. The witnesses were placed under oath, and the following documents were admitted into evidence.

Department's Exhibits:

None

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) The Respondent mailed the Combined Work Notice on February 22, 2023, advising the Appellant that she was required to register with WorkForce WV, or report an exemption, by March 28, 2023, to continue receiving SNAP benefits.
- 3) The Respondent imposed a work registration penalty against the Appellant on April 26, 2023, when it was determined that she had not registered with WorkForce WV.
- 4) The Respondent sent notice to the Appellant on April 27, 2023, advising that she would no longer receive SNAP benefits after May 31, 2023, due to the imposition of the work registration penalty.
- 5) The Appellant registered with WorkForce WV on May 12, 2023.
- 6) The Appellant reported that she had completed the WorkForce WV registration to the Respondent's Customer Service Center on June 2, 2023.
- 7) This is the Appellant's first work registration penalty.

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.

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. See Section 14.5. 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** (emphasis added).

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.

DISCUSSION

Pursuant to federal regulations, an individual must register with Workforce WV within 30 days of the date of initial SNAP approval and every 12 months thereafter as a condition of eligibility to receive SNAP benefits, unless exempt. An individual who fails to comply by the due date established on the notice to register is subject to a SNAP penalty. The penalty is not imposed, and any lost benefits are restored if the client registers and notifies the Respondent of the registration before the end of the month in which the adverse notice expires.

The Respondent notified the Appellant on February 22, 2023, that she was required to register with WorkForce by March 28, 2023, to continue receiving SNAP benefits. A penalty was imposed against the Appellant, with an effective date of June 1, 2023, when the registration had not been completed. The Respondent notified the Appellant on April 27, 2023, that she would no longer receive SNAP benefits after May 31, 2023, due to the imposition of the penalty.

The Appellant contended that she registered with WorkForce WV in March 2023 when she was seeking employment. The Appellant testified that WorkForce WV advised her that the Respondent had access to their database, therefore, she would not need to report that she had registered.

Rena Lawless, witness for the Respondent, testified that the WorkForce WV database was checked on April 26, 2023, and the Appellant had not completed registration at that time. Ms. Lawless stated that the Appellant did not report the registration until June 2, 2023, after the effective date of the penalty.

Policy stipulates that once a work registration penalty is imposed, the Respondent is not required to independently verify if the recipient has registered after the date the penalty is entered into the system. Although the Appellant registered with WorkForce prior to the effective date of the penalty, the information was not reported until June 2, 2023.

Whereas the Appellant failed to report that she had registered with WorkForce WV prior to the

effective date of the work registration penalty, the Respondent's decision to terminate the Appellant's SNAP benefits is affirmed.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, a SNAP penalty may not be imposed if a recipient registers and reports the work registration prior to the effective date of the penalty.
- 2) The Appellant was required to register with WorkForce by March 28, 2023.
- 3) The Respondent imposed a penalty against the Appellant on April 26, 2023, when the registration had not been completed.
- 4) The effective date of the work registration penalty was June 1, 2023.
- 5) The Appellant registered with WorkForce on May 12, 2023, and reported the registration to the Respondent on June 2, 2023.
- 6) The Appellant must serve the minimum three (3) month work registration penalty.

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 12th day of July 2023.

Kristi Logan
Certified State Hearing Officer