



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

Christopher G. Nelson
Interim Inspector General

October 20, 2023

[REDACTED]

RE: [REDACTED] V. WVDHHR
ACTION NO.: 23-BOR-2882

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Melanie Kelly, WVDHHR

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

████████████████████,

Appellant,

v.

Action Number: 23-BOR-2882

**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 October 18, 2023.

The matter before the Hearing Officer arises from the August 10, 2023, decision by the Respondent to terminate Supplemental Nutrition Assistance Program (SNAP) benefits.

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

Department's Exhibits:

- D-1 SNAP work registration letter dated June 29, 2023
- D-2 Notice of Decision and BEP Penalty Notice dated August 10, 2023
- D-3 Case Comments from Respondent's computer system for the period of May 16, 2023, through October 6, 2023
- D-4 West Virginia Income Maintenance Manual Chapters 14.2, 14.3 and 14.5

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 Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) On June 29, 2023, the Respondent sent the Appellant a notice indicating that she was required to register with WorkForce West Virginia by July 28, 2023 (Exhibit D-1).
- 3) The notice was sent to the Appellant's known mailing address, [REDACTED] (Exhibit D-1).
- 4) The Appellant failed to register with WorkForce West Virginia by July 28, 2023.
- 5) The Respondent sent the Appellant a notice on August 10, 2023, indicating that her SNAP benefits would stop effective September 2023 (Exhibit D-2).
- 6) The Respondent sent the Appellant a separate notice on August 10, 2023, indicating that a third work program sanction (12-month penalty) would be applied to her SNAP benefits (Exhibit D-2).
- 7) The Appellant reported a change of address to the Respondent on September 11, 2023 (Exhibit D-3).
- 8) The Appellant registered with WorkForce WV on September 11, 2023, after the work program sanction was already in effect.

APPLICABLE POLICY

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

(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 Chapter 14.2.1.A states that all SNAP applicants/recipients are subject to a work requirement, unless exempt.

West Virginia Income Maintenance Manual Chapter 14.3.1.A states that all individuals must 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. A client may register by visiting a WorkForce West Virginia office or may register online.

Chapter 14.5.1.B of the Manual states 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 is subject to the following penalties for the full penalty period or until he or she reports a change which makes him/her exempt from work requirements.

Chapter 14.5.1.B states that for the third work program violation, the individual is removed from the SNAP Assistance Group for at least 12 months or until he or she meets an exemption. If after 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.

Chapter 1.2.4 of the Manual states that it is the client's responsibility to provide complete and accurate information about his circumstances so that the worker can make a correct determination about his eligibility.

DISCUSSION

Policy states that all SNAP applicants/recipients are subject to a work requirement, unless exempt. A non-WV WORKS recipient who refuses or fails to register with WorkForce West Virginia is subject to a penalty for the full penalty period or until he or she reports a change that makes him/her exempt from work requirements. For the third work program violation, the individual is removed from the SNAP Assistance Group for at least 12 months or until he or she meets an exemption.

The Appellant testified that she had previously been homeless and had been receiving mail at her mother's post office box until she moved to her current physical/ mailing address, [REDACTED]. She contended that she reported her change of address to an individual at the front desk of the Respondent's office in June 2023, and that she no longer had access to her mother's post office box following her move. The Appellant testified that the last mail she received from the Respondent at the post office box was in May 2023, and that she did not receive letters regarding the WorkForce WV registration requirement.

The Respondent's representative testified that the Respondent used the address known for the Appellant when the WorkForce WV registration notice was sent on June 29, 2023, and that the Respondent has no record of the Appellant reporting an address change in June 2023. Case Comments document that the Appellant reported an address change to the Respondent on September 11, 2023. There was no indication that notices sent to the Appellant in June/July 2023 were returned to the Respondent as undeliverable.

Based on information provided during the hearing, the Respondent's decision to apply a SNAP work penalty was correct since the Appellant failed to register with WorkForce WV by the July 28, 2023, deadline.

CONCLUSIONS OF LAW

- 1) A non-WV WORKS recipient who refuses or fails to register with WorkForce West Virginia is subject to a penalty for the full penalty period or until he or she reports a change that makes him/her exempt from work requirements.
- 2) The Appellant was required to register with WorkForce West Virginia by July 28, 2023.
- 3) The Appellant failed to register with WorkForce West Virginia by July 28, 2023.
- 4) The Respondent's decision to impose a 12-month work program penalty on the Appellant's SNAP benefits effective September 2023 based on failure to register with Workforce West Virginia is correct.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to terminate SNAP benefits and impose a 12-month work program penalty effective September 2023.

ENTERED this 20th day of October 2023.

**Pamela L. Hinzman
State Hearing Officer**