



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

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

**Christopher G. Nelson
Interim Inspector General**

October 17, 2023

[REDACTED]

RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-2914

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: Melanie Kelly, BFA, WV DHHR

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

████████████████████,

Appellant,

v.

ACTION NO.: 23-BOR-2914

**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 11, 2023, on an appeal filed September 20, 2023.

The matter before the Hearing Officer arises from the Respondent's August 18, 2023 decision to reduce Supplemental Nutrition Assistance Program (SNAP) benefits for failure to register with WorkForce West Virginia (WorkForce).

At the hearing, the Respondent appeared by Melanie Kelly, Economic 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 Combined Work Notice (CWN1) of SNAP work rules (incomplete, pages 1 and 3 only), dated July 3, 2023
- D-2 Completed (PRC2) Supplemental Nutrition Assistance Program (SNAP) – 6 or 12 month contact form, dated received July 31, 2023; Screen print of Case Comments from August 17, 2023
- D-3 Notice (AE06) of SNAP work requirement penalty, dated August 18, 2023 (incomplete page 1 only)
- D-4 Notice (EDR1) of SNAP reduction, dated August 18, 2023 (incomplete pages 1 and 3 only)
- D-5 Statement on Prescription pad from ██████████ dated September 6, 2023 and date stamped received by the Respondent on September 12, 2023; Written statement

- from [REDACTED], dated September 15, 2023; Screen print of Case Comments from September 5, 2023 to September 20, 2023
- D-6 WV Income Maintenance Manual (WV IMM), Chapter 10, §§10.4.2, 10.4.2.A, 10.4.2.B.1 (excerpt), 10.4.2.B.3 (excerpt), 10.4.2.D (excerpt), 10.4.3.A.1 (excerpt), 10.4.3.B
- D-7 Notice (EDI1) of penalty removal, dated September 19, 2023 (incomplete, pages 1 and 3 only)

Appellant's Exhibits:

None* The Hearing was held open until 5:00 p.m. October 11, 2023 for email submission of an exhibit, without objection from the Respondent. No documentation was received.

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 is a SNAP recipient in an assistance group (AG) of 5.
- 2) On July 3, 2023, a CWN1 Notice of SNAP work rules was sent to the Appellant. (Exhibit D-1)
- 3) On July 31, 2023, the Appellant submitted her PRC2 review form. (Exhibit D-2)
- 4) On August 17, 2023, the Respondent processed the Appellant's PRC2 and determined that the Appellant had not registered with WorkForce by August 1, 2023. (Exhibit D-2)
- 5) A second work requirement penalty against the Appellant was entered with notification sent to the Appellant on August 18, 2023. (Exhibit D-3)
- 6) Notification of SNAP benefit reduction was sent to the Appellant on August 18, 2023. (Exhibit D-4)
- 7) On September 5, 2023, the Appellant went to her local DHHR office to report an exemption to the WorkForce registration requirement.
- 8) On September 18, 2023, the Appellant submitted a written statement from [REDACTED], which was accepted to establish the SNAP work requirement exemption for the Appellant. (Exhibit D-5)
- 9) Notification was sent to the Appellant that she was reinstated in the SNAP AG beginning October 1, 2023. (Exhibit D-7)

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §273.7.a.1, in pertinent part states that 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 SNAP work requirements.

Code of Federal Regulations 7 CFR §273.7.f.2, *Disqualification periods*, explains that 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.

WV IMM, Chapter 14, §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.

...

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.

WV IMM, Chapter 14, §14.5.1.B, in part, 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.

...

Non-Voluntary Quit Penalty Example 2: In June, Mr. Rose, a client, fails to register with WorkForce West Virginia and a penalty is imposed effective July 1. At the end of the minimum penalty period of three months, he still has not registered, so the penalty continues. In November, Mr. Rose reports he is working 35 hours a week. Since he meets an exemption, he is added back to the AG effective December ...

WV IMM, Chapter 10, §10.4.3.A.1, *Addition of an AG Member or a Decrease in Income of \$125 or More*, in part, explains that the change must be effective no later than the month following the month in which the change is reported. When the change is reported after the system deadline, supplemental benefits must be issued and received by the 10th of the following month.

DISCUSSION

Policy requires that an individual 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 Appellant was required to register with WorkForce or establish an exemption by August 1, 2023. When the Respondent's worker processed the Appellant's SNAP review (PRC-2) on August 17, 2023, it was discovered that the Appellant had not complied with SNAP work requirements, and a penalty was imposed. This is the Appellant's second work requirement penalty. Notification of the Appellant's work requirement penalty and reduction of SNAP benefits were sent on August 18, 2023.

The Appellant did not contact the Respondent until September 5, 2023 claiming an exemption from the SNAP work requirement. At that visit, the Appellant was verbally instructed that the Appellant needed a statement from her child's physician in order to establish the caretaker exemption. No written request for verification was given to the Appellant informing her exactly what she needed to establish the exemption. The Appellant returned to her local office on September 12, 2023 and submitted a written note from her child's physician, [REDACTED], stating that, "Patient has Autism Spectrum Disorder. Mother is his sole caretaker. Thanks!" At this time, the Respondent's worker provided a Medical Assessment form (DIMA-1) for the physician to

complete. On September 18, 2023, a written statement from the physician was received by the Respondent which was determined to qualify the Appellant for an exemption to SNAP work requirement policy. Notification was sent to the Appellant that she was added to the SNAP AG beginning October 1, 2023.

The Appellant does not contest the fact that she failed to comply with SNAP work requirements or establish an exemption prior to August 1, 2023 or that this was her second penalty. The Appellant contests the fact that she was not added back to the SNAP AG for September.

Policy requires that once a SNAP work requirement penalty is applied, the SNAP participant is removed from the AG, in the case of a second violation (penalty), for a period of six months or until the individual meets an exemption. Because the Appellant did not register with WorkForce or establish an exemption prior to the imposition of the penalty, the Respondent acted correctly in removing the Appellant from the SNAP AG for September 2023. Evidence showed that notification was sent for WorkForce registration on July 3, 2023. The Appellant did not contest this fact.

Once the Appellant met the work requirement exemption in September, the Respondent correctly added the Appellant back to the SNAP AG beginning the month of October. Policy explains that if the change to the SNAP benefit amount is due to the addition of an AG member, the change is effective no later than the following month in which the change is reported. Additionally, policy cites as an example an individual who meets an exemption after a work requirement penalty is applied (See, WV IMM Chapter 14, §14.5.1.B, Non-Voluntary Quit Penalty Example 2). In the example, the individual establishes an exemption in November and is added back to the AG for December. Thus, because the Appellant did not establish an exemption until after the work requirement penalty was applied, she was correctly removed from the SNAP AG for the month of September. The Appellant did establish an exemption in the month of September which qualified her for SNAP benefits for the month of October. Policy does not support retroactive SNAP benefits from the date of the report of the SNAP work requirement exemption.

The Respondent's actions in applying a second work requirement penalty to the Appellant resulting in her removal from the SNAP AG for September 2023 and its subsequent decision to add her back beginning October 2023 after establishing an exemption in September is affirmed.

CONCLUSIONS OF LAW

- 1) SNAP work requirement policy requires all individuals to 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.
- 2) The Appellant was required to register with WorkForce or meet an exemption by August 1, 2023, but did not do so.

- 3) As this was the Appellant's second work requirement penalty, the Respondent correctly imposed a six month removal of the Appellant from the SNAP AG, beginning September 1, 2023.
- 4) Once a work requirement penalty has been imposed, the individual must serve the length of the penalty or until an exemption is established.
- 5) When an individual is added to a SNAP AG, the change must be effective no later than the month following the month in which the change is reported.
- 6) As the Appellant established a work requirement exemption in September 2023, the Respondent correctly added the Appellant back to the SNAP AG for the month of October 2023.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to apply a second SNAP work requirement penalty against the Appellant resulting in her removal from the SNAP AG beginning September 1, 2023 and subsequently adding her back beginning October 2023 after she established an exemption in the month of September.

ENTERED this 17th day of October 2023.

Lori Woodward, Certified State Hearing Officer