



**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 18, 2023



RE: [REDACTED] v. WV DHHR
ACTION NO.: 23-BOR-2970

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: Appellant's Recourse to Hearing Decision
Form IG-BR-29

cc: Angela Mitchem, [REDACTED] DHHR

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

██████████,

Appellant,

v.

Action Number: 23-BOR-2970

**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, on an appeal filed on September 25, 2023.

The matter before the Hearing Officer arises from the September 15, 2023, decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Angela Mitchem, 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 Appellant completed an interview with the Respondent on May 24, 2023, in conjunction with his SNAP eligibility redetermination.
- 3) The Appellant reported that he was unable to work, and the Respondent mailed a Disability/Incapacity Medical Assessment (DIMA-1) form to the Appellant to have completed by his physician.
- 4) On September 14, 2023, the Respondent discovered that the Appellant's WorkForce WV registration had expired and imposed a work registration penalty, effective October 1, 2023, against the Appellant.
- 5) The Respondent issued notices on September 15, 2023, advising the Appellant that he would no longer receive SNAP benefits after September 30, 2023, due to the imposition of a work registration penalty.
- 6) The Respondent did not send notice to the Appellant of his requirement to register with WorkForce WV.

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.

The Worker must enter the appropriate information in the eligibility system at any point during the certification period when the client is due to register with WorkForce West Virginia. The eligibility system uses this information to send the client the notice to register 30 days prior to the due date. **When the Worker discovers the client was not notified that he must re-register during the certification period and is not currently exempt, the Worker must follow the same steps as noted above to establish a new registration due date and to ensure the client is notified 30 days prior to the new registration due date** (emphasis added).

West Virginia Income Maintenance Manual §9.6 states the Consolidated Work Notice (CWN) is the SNAP work requirement notification for the state of West Virginia. The CWN explains the requirements for SNAP members who must comply with either/both the SNAP Basic Work Rules or the Able-Bodied Adults without Dependents (ABAWD) Time Limit Rules. In addition, the CWN provides the AG with their right to a fair hearing, information on non-discrimination and how to contact the state ADA Coordinator if additional assistance is needed.

Individuals who are working enough hours or those who are exempt are not required to comply with work requirements. These individuals are not documented on the CWN. Demographic

information entered into the eligibility system determines who must comply with work requirements. The following information is detailed on the CWN:

SNAP Basic Work Rules

- An explanation of the different SNAP work requirements
- What qualifies as an exempt individual
- When and how each individual must register with job service through Workforce WV
- What happens if the work requirement is not followed
- What to do if the individual has a good cause situation
- Penalty periods for not complying with work requirements

ABAWD Time Limit Rules

- Why an individual is considered ABAWD
- How to meet the ABAWD work requirement Reporting when the individual is no longer meeting the requirement
- Who is exempt from ABAWD • Penalty after receiving 3 months without meeting the requirement What to do if the individual has a good cause situation

The CWN is sent to the SNAP AG after application certification, redetermination, when an individual who was previously exempt is now subject to either work requirement, or when a new individual is added to the SNAP AG and must comply with either work requirement. The CWN is available through the eligibility system and the PATH public portal.

DISCUSSION

Pursuant to policy and 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. The Respondent imposed a penalty against the Appellant when he failed to register with WorkForce WV.

The Consolidated Work Notice (CWN) is sent to the SNAP assistance group when an individual is required to register with job service through Workforce WV. The CWN explains 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. The eligibility system uses this information to send the client the notice to register 30 days prior to the due date. When the Worker discovers the client was not notified that he must re-register during the certification period and is not currently exempt, the Worker must establish a new registration due date and to ensure the client is notified 30 days prior to the new registration due date.

The Respondent's witness testified that the CWN should have been mailed to the Appellant after completing his eligibility review in May 2023 but could find no record that the form had been sent.

Whereas the Appellant was not given 30 days' notice of the requirement to register with WorkForce WV, the Respondent incorrectly imposed a penalty against his benefits. The Respondent's decision to terminate the Appellant's SNAP benefits for failure to register with WorkForce WV cannot be affirmed.

CONCLUSIONS OF LAW

- 1) The Consolidated Work Notice is issued to SNAP recipients advising of the requirement to register with WorkForce WV and the due date of registration.
- 2) Policy requires that the Consolidated Work Notice be issued at least 30 days prior to the due date of the work registration.
- 3) The Appellant was not issued a Consolidated Work Notice.
- 4) The Respondent erroneously imposed an work registration penalty and terminated the SNAP benefits.

DECISION

It is the decision of the State Hearing Officer to **reverse** the decision of the Respondent to impose a work registration penalty and **reverse** the decision to terminate the Appellant's Supplemental Nutrition Assistance Program benefits.

ENTERED this 18th day of October 2023.

Kristi Logan
Certified State Hearing Officer