



March 27, 2024

[REDACTED]

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 24-BOR-1608

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 Human Services. These same laws and regulations are used in all cases to ensure 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,

Eric L. Phillips
State Hearing Officer
Member, State Board of Review

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

cc: John Oglesbee, BFA

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

██████████,

Appellant,

v.

Action Number: 24-BOR-1608

**WEST VIRGINIA DEPARTMENT OF
HUMAN SERVICES
BUREAU FOR FAMILY ASSISTANCE,**

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 Office of Inspector General Common Chapters Manual. This fair hearing was convened on March 21, 2024.

The matter before the Hearing Officer arises from the February 14, 2024 decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by John Oglesbee, Community Services Manager. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 CSLR Redetermination Form dated December 13, 2023 (Incomplete exhibit missing 15 pages)
- D-2 Computer printout of case comments dated December 28, 2023
- D-3 Verification Checklist dated December 28, 2023
- D-4 Pay Verification
- D-5 Computer printout of Earned Income
- D-6 Computer printout of case comments dated January 2, 2024 through January 23, 2024
- D-7 Notice of Decision dated January 3, 2024
- D-8 Notice of Decision dated January 3, 2024
- D-9 Notice of SNAP Work Rules dated January 3, 2024

- D-10 Computer printout of case comments dated March 4, 2024 through March 7, 2024
- D-11 Computer printout of WorkForce WV Registration
- D-12 Notice of SNAP Work Rules dated January 12, 2024
- D-13 Notice of SNAP Work Rules dated January 23, 2024
- D-14 Notice of Decision dated February 14, 2024
- D-15 Notice of Sanction dated February 14, 2024
- D-16 Computer printout of Client Notice Summary

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's household consisted of himself.
- 3) On December 13, 2023, the Appellant completed a redetermination of SNAP benefits. (Exhibit D-1)
- 4) The Appellant reported biweekly hours worked from [REDACTED] in the amount of December 6, 2023 for 23.56 hours and December 20, 2023 for 32.65 hours. (Exhibit D-4)
- 5) The Appellant no longer met an exemption to the SNAP work registration requirements.
- 6) The Respondent issued multiple notices to the Appellant informing him of the requirement to register with WorkForce West Virginia (WorkForce) (Exhibit D-9, Exhibit D-12, Exhibit D-13) by February 1, 2024.
- 7) The Appellant did not register with WorkForce or establish an exemption to the work registration requirements by the established due date.
- 8) On February 14, 2024, the Respondent issued notice to the Appellant documenting that a three-month penalty had been applied to his SNAP benefits for failing to meet the work registration requirements or meet an exemption. (Exhibit D-15)
- 9) On February 14, 2024, the Respondent issued notice to the Appellant documenting that his SNAP assistance would terminate effective March 1, 2024 due to his failure to register with WorkForce.

APPLICABLE POLICY

West Virginia Income Maintenance Manual § 14.3.1.A documents:

All SNAP recipients must register for employment with WorkForce West Virginia, within 30 days of the date of the original SNAP approval, unless exempt. Recipients must register every 12 months thereafter, regardless of the length of time that WorkForce West Virginia considers the registration valid. 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 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 client may register by visiting a WorkForce West Virginia office, or by registering online. The Worker must explain these requirements to the client and enter the registration date in 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.

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.

West Virginia Income Maintenance Manual § 14.2.1.B documents:

The following SNAP clients are exempt from the SNAP work requirements and are not subject to a SNAP penalty for failure to comply:

- A person under age 16.
- A person age 16 or 17 who is not the SNAP payee or primary person.
- A person age 16 or 17 who is attending school or enrolled in an employment training program on at least a half-time basis.
 - A person enrolled at least half-time in any recognized school, recognized training program, or institution of higher education. If enrolled in an institution of higher education, the student must meet one of the exceptions to the restriction on student participation listed in Section 3.2. This exemption continues through normal periods of vacation, unless the person does not intend to register for the next term, excluding summer terms.
- A person age 60 or over.
- A parent, or other member of the AG who has the responsibility for the care of a child under the age of six, or of an incapacitated and/or disabled individual. The person receiving the care is not required to reside with the AG or be a member of the SNAP AG. Unborn children are not considered children under the age of six.
- Individuals receiving Unemployment Compensation Insurance (UCI) from any state. This includes persons receiving benefits under the Trade Readjustment Allotment (TRA). If an individual's UCI benefits are suspended, he becomes subject to the SNAP work requirements when the change is reported, unless a SNAP penalty is applied, or unless exempt for some other reason. When a client reports the loss of UCI income, the Worker must evaluate the circumstances to determine if a penalty must be applied. A penalty is applied when the individual is exempt from SNAP work requirements due solely to the fact that the client was receiving UCI, unless another exemption is met. Good cause for failure to comply with UCI requirements include all situations described in Section 14.4 for voluntary quit.
- Individuals who are physically or mentally unfit to engage in full-time employment. See Section 13.15.
- Regular participants in a drug addiction or alcoholic treatment and rehabilitation program, either on a resident or non-resident basis. Regular participation is defined by the drug addiction or alcoholic treatment and rehabilitation program.
- 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 receive WV WORKS and do not meet any of the other SNAP exemptions listed above, so long as they are subject to, and complying with, a WV WORKS work requirement. These individuals would be required to meet the SNAP work requirements if they did not receive WV WORKS.

West Virginia Income Maintenance Manual § 14.5.1.B documents:

A client who refuses or fails to register with WorkForce West Virginia 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 meets an exemption. If after three 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 Unemployment Compensation Insurance (UCI) related activities.
- Second violation: The client is removed from the AG six months or until he meets an exemption. If after six 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.
- Third and subsequent violations: The client is removed from the AG for 12 months or until he meets an exemption. If after the 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.

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.

DISCUSSION

Federal regulations mandate that to maintain eligibility for SNAP benefits, a recipient must register with WorkForce within 30 days of the original approval and every 12 months thereafter, unless otherwise exempt. The penalty for failing to register with WorkForce is removal from the assistance group for three months for the first offense, removal from the assistance group for six months for the second offense, and removal from the assistance group for twelve months for all third and subsequent violations. All penalties remain in effect until the individual complies with or meets an exemption to the work requirements.

The Respondent had to prove by a preponderance of the evidence that the Appellant failed to inform the Respondent of his registration with WorkForce, or meet an exemption to the requirement, by February 29, 2024, the month prior to the effective date of the termination of SNAP benefits.

In January 2024, the Respondent determined that the Appellant no longer met an exemption to the SNAP work registration requirements because he no longer was employed for a minimum 30 weekly hours or receiving weekly earnings equal to the federal minimum wage. In January 2024, the Respondent issued notice to the Appellant informing him of the requirement to provide verification of his WorkForce registration by February 1, 2024. The Appellant failed to provide the requested verifications by the due date and the Respondent subsequently imposed a work penalty sanction, effective March 1, 2024, terminating SNAP benefits.

The Appellant proffered unpersuasive testimony that he was not aware of the work registration requirements because he did not receive notification from the Respondent. The evidence presented demonstrated that the Respondent issued three separate notifications of the work registration requirements; however, there was no evidence to support the Appellant's claim that such notices were undeliverable to his confirmed address.

Based on a review of evidence, the Respondent properly notified the Appellant of his responsibility to meet the requirements of SNAP. The Respondent provided notice informing the Appellant of the imposition of the penalty which resulted in a three-month removal of his participation in SNAP. Because the Appellant failed to notify the Respondent of his work registration compliance prior to February 29, 2024, the Respondent was correct in its decision to terminate SNAP benefits.

CONCLUSIONS OF LAW

- 1) SNAP recipients, unless otherwise exempt, must meet work registration requirements with WorkForce West Virginia within 30 days of the original SNAP approval and twelve months thereafter to maintain eligibility for the program.
- 2) A penalty was applied to the Appellant's SNAP benefits when he failed to meet the SNAP work registration requirements or provide verification of exemption prior to the penalty imposition date of February 29, 2024.
- 3) The Appellant is ineligible to receive SNAP benefits until the minimum penalty is served or an exemption is met.

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 _____ day of March 2024.

Eric L. Phillips
State Hearing Officer