



April 2, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS/BFA
ACTION NO.: 24-BOR-1407

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 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,

Tara B. Thompson, MLS
State Hearing Officer
Member, State Board of Review

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

cc: Priscilla Steele, DoHS

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

████████████████████

Appellant,

v.

Action Number: 24-BOR-1407

**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 19, 2024.

The matter before the Hearing Officer arises from the Respondent's November 16, 2024 decision to implement a sanction period of Supplemental Nutrition Assistance Program ineligibility.

At the hearing, the Respondent appeared by Priscilla Steele, ██████████ DoHS. The Appellant appeared and represented herself. Appearing as a witness on behalf of the Appellant was ██████████. All witnesses were placed under oath. No exhibits were submitted to the evidence record.

Department's Exhibits:

None

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's mailing address of record is [REDACTED].
- 2) On November 16, 2023, the Respondent issued a notice to the Appellant's address of record advising that her SNAP benefits would be terminated after November 30, 2023, because she failed to register with WorkForce as required.
- 3) On October 2, 2023, the Respondent mailed a notice addressed to the Appellant's address of record.
- 4) The notice advised the Appellant of her responsibility to follow the SNAP Work Rules, follow the Able-Bodied Adults Without Dependents (ABAWD) Time Limit Rules, and register with WorkForce WV by October 29, 2023.
- 5) The notice advised if the Appellant did not comply with the rules without good reason, she may lose her SNAP benefits.
- 6) The notice advised the Appellant would lose SNAP benefits if she failed to follow the SNAP rules. The notice stipulated:
 - The first time you don't follow these rules, and you don't have a good reason, you can't get SNAP benefits for 3 months.
 - The second time you don't follow these rules, you can't get SNAP benefits for 6 months.
 - The third time, you can't get SNAP benefits for 12 months.
- 7) On January 12, 2024, the Appellant contacted the Respondent about a different program and was advised by the Respondent she was ineligible for the program because her SNAP penalty was in effect.
- 8) On February 14, 2024, the Appellant contacted the Respondent and disputed receiving the October 2, 2023 notice.
- 9) The Appellant previously received mail at the Respondent's address due to mail issues at her address of record.
- 10) The Appellant registered with WorkForce after the effective date of the SNAP penalty.

APPLICABLE POLICY

Code of Federal Regulations 7 CFR § 273.7 *Work Requirements* provides in relevant sections:

(a)(1) *Persons required to register.* Each household member who is not exempt by paragraph (b)(1) of this section shall be registered for employment by the State agency at the time of application, and once every twelve months after initial registration, as a condition of eligibility

Code of Federal Regulations 7 CFR § 273.7(c) *State Agency Responsibilities* provides in relevant sections:

(1)

(i) Non-exempted 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 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 new household member becomes subject to these work requirements, and at recertification ...

(3) After learning of an individual's non-compliance with SNAP work requirements, the State agency must issue a notice of adverse action to the individual, or to the household if appropriate, within 10 days of establishing that the noncompliance was without good cause ... If the individual complies before the end of the advance notice period, the State agency will cancel the adverse action.

Code of Federal Regulations 7 CFR § 273.7(f) *Ineligibility for failure to comply* provides in relevant sections:

A nonexempt individual who refuses or fails without good cause to comply with SNAP work requirements listed under paragraph (a)(1) of this section is ineligible to participate in SNAP, and will be considered an ineligible household member, under the conditions provided in § 273.1(b)(7).

(1)

(i) As soon as the State agency learns of the individual's noncompliance it must determine whether good cause for noncompliance exists, as discussed in paragraph (i) of this section. Within 10 days of establishing that the noncompliance was without good cause, the State agency must provide the individual with a notice of adverse action, as specified in § 273.13 ...

(2) 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.

Code of Federal Regulations 7 CFR § 273.7(i) Good Cause provides in relevant sections:

- (1) The state agency is responsible for determining good cause when a SNAP recipient fails or refuses to comply with SNAP work requirements. Since it is not possible for the Department to enumerate each individual situation that should or should not be considered good cause, the State agency must take into account the facts and circumstances, including information submitted by the employer and by the household member involved, in determining whether good cause exists.
- (2) Good cause includes circumstances beyond the member’s control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation, or the lack of adequate child care for children who have reached age six but are under age 12.

West Virginia Income Maintenance Manual (WVIMM) § 14.3.1.A provides in relevant parts: Individuals are required to register with Workforce within 30 days of the date of original approval, unless exempt. Clients must register every 12 months thereafter ... 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.

WVIMM §14.5.1.B provides in relevant parts: A client who fails to register with Workforce is subject to a penalty period. For the first violation, the client is removed from the Assistance Group (AG) for at least three months. For the second violation, the client is removed from the AG for six months. For the third violation, the client is removed from the AG for twelve months.

DISCUSSION

The Respondent terminated the Appellant’s SNAP benefits after November 2023 because she failed to register with Workforce WV by the due date and did not meet an exemption. The Appellant argued that she did not register because she did not receive notice from the Respondent that she was required to register. The Appellant argued that she registered after she spoke to the Respondent in January 2024 and learned about the work registration requirement. During the hearing, the Appellant affirmed that her current address of record was correct.

Although a copy of the November 16, 2023 notice of adverse action was not supplied for review, the Respondent's representative testified that the notice was mailed to the Appellant's address of record and advised that her SNAP would be terminated, after November 30, 2023, because she failed to register with WorkForce. During the hearing, the Appellant did not dispute the Respondent's representative's testimony regarding the dates of the Respondent's case actions.

The Respondent bears the burden of proof. To prove that the Respondent correctly terminated the Appellant's SNAP eligibility and implemented a SNAP ineligibility penalty after November 30, 2023, the Respondent had to demonstrate by a preponderance of evidence that the Appellant was properly notified of her WorkForce registration requirement and failed to comply by the established date. Further, if the evidence verified the basis for the Respondent's action, the submitted evidence had to prove that the Appellant was properly notified of her SNAP eligibility termination and implementation of the SNAP ineligibility period.

Written Notification and Oral Explanation of SNAP work requirements

During the hearing, the Appellant testified that she was not notified the household was up for an eligibility review. During the hearing, the Respondent's representative testified that the October 2023 notification of the Appellant's SNAP work requirements was a routine annual computer mailing unrelated to an eligibility review. During the hearing, the Hearing Officer inquired about whether the Appellant would have been advised of her work requirements during an interview or eligibility review in addition to the October 2023 notice. The Respondent's representative answered, "No," and explained that the notice was computer generated.

The federal regulations instruct that the State agency is required to register non-exempt SNAP members every twelve months after initial WorkForce registration to continue SNAP eligibility. While the Respondent's representative testified that the October 2023 notification was separate from an eligibility review, the regulations specify that the agency must provide written notice and oral explanation to the household of all applicable work requirements for all members of the household. The agency's policy stipulates that the Respondent's worker must explain the client's requirement to register with WorkForce online or by visiting a WorkForce office. The preponderance of the evidence revealed the Respondent failed to meet the agency's responsibility to notify the Appellant orally and in writing of her WorkForce registration requirement.

No testimony or records were submitted to indicate that the Appellant would qualify for any exemption listed under 7 CFR § 273.7 (b)(1).

Advanced Notice of Adverse Action

The policy stipulates that after learning of an individual's non-compliance with SNAP work requirements, the Respondent must issue a notice of adverse action to the household within 10 days of establishing that the noncompliance was without good cause. The regulations provide that the notice must contain information including the period of disqualification. The regulations stipulate that the agency is responsible for determining what constitutes good cause when a SNAP recipient fails to comply with SNAP work requirements. No evidence was submitted to indicate

that the Respondent assessed the Appellant for good cause for failure to comply with the work rules.

The Respondent's testimony indicated that an advanced notice of SNAP termination was generated by the Respondent. The Respondent's representative testified that the notice was mailed to the Appellant's address of record on November 16, 2023. However, a copy of the notice was not provided for review. The Respondent's representative did not offer clarifying testimony regarding the length of the SNAP disqualification period or establish that the November 16, 2023 notice contained the information required by the regulations. Because the evidence established the Respondent failed to properly notify the Appellant of her WorkForce registration responsibility, the issue of inadequate advance notice of SNAP termination is moot.

Good Cause for WorkForce Registration Failure

The Appellant argued that her historic mail issues prevented her from receiving the Respondent's October and November 2023 notices. The Appellant testified she was unaware of the sanction until she contacted the Respondent. The Respondent's representative testified that the Appellant contacted her in January 2024. The Appellant's witness provided testimony supporting the historic mail issues by asserting the household received mail at the Respondent's address for two months; however, no information was supplied to establish what months or what year the household received mail at the Respondent's address. The submitted evidence did not indicate that the Appellant was receiving her mail somewhere other than her address of record in October and November 2023. The submitted evidence did not indicate that the Appellant's household notified the postal service of her issues or what steps she had taken with the postal service to resolve the issues.

While the issue of establishing good cause is moot because the Respondent did not orally explain the Appellant's WorkForce registration requirements, it should be noted by the parties that the Board of Review cannot grant relief in the issue of undelivered mail from the postal service. The Board of Review may only determine whether the Respondent correctly issued notices to the Appellant at her address of record.

CONCLUSIONS OF LAW

- 1) The Respondent is required to provide the Appellant with a written notice and oral explanation of all applicable work requirements that identify which household member is subject to which work requirement.
- 2) When a household fails to comply with the SNAP work requirements, the Respondent must issue an advanced notice of adverse action before terminating the Appellant's SNAP benefits.
- 3) The preponderance of evidence verified the Respondent issued a written notice advising the Appellant of her SNAP work requirements.

- 4) The preponderance of evidence failed to establish that the Respondent orally explained the Appellant's SNAP work requirements to her.
- 5) As the preponderance of evidence failed to verify the Respondent orally explained the Appellant's SNAP work requirements, the Respondent's November 16, 2023 decision to implement a SNAP ineligibility sanction — for failure to register with WorkForce — cannot be affirmed.
- 6) Because the Respondent incorrectly terminated the Appellant's SNAP eligibility without orally explaining her SNAP work requirements, the Appellant's SNAP eligibility must be retroactively reinstated.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's decision to terminate the Appellant's SNAP benefits because she failed to comply with the work requirement. It is hereby **ORDERED** that any lost benefits be restored and made retroactive to the date of termination. The matter is **REMANDED** for the issuance of proper written notice and oral explanation of all the Appellant's applicable work requirements and pertinent dates by which she must act to remain in compliance.

ENTERED this 2nd day of April 2024.

**Tara B. Thompson, MLS
State Hearing Officer**