



May 10, 2024



RE: [REDACTED] v. WV DoHS
ACTION NO.: 24-BOR-1728

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 (DoHS). 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,

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

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

cc: Monica Emery, [REDACTED] DoHS

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

████████████████████,

Appellant,

v.

Action Number: 24-BOR-1728

**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 April 16, 2024.

The matter before the Hearing Officer arises from the Respondent's February 13, 2024 decision to terminate the Appellant's Supplemental Nutrition Assistance Program benefits.

At the hearing, the Respondent appeared by Monica Emery, ██████████ Department of Human Services (DoHS). The Appellant appeared and represented herself. Both witnesses were placed under oath and the following exhibits were submitted into evidence:

Department's Exhibits:

- D-1 Notice, dated April 2, 2024
- D-2 Request for Hearing, dated March 18, 2024
- D-3 Case Comments, dated from September 5, 2023, through April 1, 2024
- D-4 West Virginia Income Maintenance Manual Excerpts

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) On February 13, 2024, the Respondent issued a notice advising the Appellant her SNAP benefits would be terminated after February 29, 2024, because she did not comply with periodic reporting requirements by failing to register with WorkForce West Virginia (hereafter WorkForce).
- 2) On February 13, 2024, the Respondent issued a notice advising that a first-offense SNAP three-month disqualification penalty was applied to the Appellant because she failed to register with WorkForce (Exhibit D-1).
- 3) On February 12, 2024, the Respondent's worker noted in the case record that the Appellant failed to register with WorkForce (Exhibit D-3).
- 4) The Respondent verbally notified the Appellant of her WorkForce registration requirement on March 18, 2024.
- 5) The Appellant's SNAP benefits were terminated after February 29, 2024.

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 February 2024 because she failed to register with WorkForce by the due date. The Appellant argued that she became aware her WorkForce registration was due after her SNAP benefits were terminated.

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 February 29, 2024, 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 due date.

Written Notification and Oral Explanation of SNAP Work Requirements

The case comments reflect a notation of the Appellant's failure to register with WorkForce, however, the submitted records failed to establish that the Appellant was verbally notified of her work registration requirements. While the Respondent's representative testified that a "combined WorkForce" notice was issued in February 2024 advising the Appellant of the WorkForce registration requirement, the submitted notices are of adverse action, not notices of the registration requirement. The Respondent's representative testified that she did not locate a record of any notices issued before February 13, 2024 advising the Appellant of her WorkForce registration responsibility.

During the hearing the Respondent's representative testified that the Appellant was first verbally notified of her WorkForce registration responsibility on March 18, 2024, after the imposition of the ineligibility penalty and Appellant's SNAP benefits were terminated.

The federal regulations instruct that the State agency is required to register non-exempt SNAP members every twelve months after the initial WorkForce registration for SNAP eligibility to be

continued. The regulations require the Respondent to issue written notice and oral explanation to the household of all applicable work requirements. The Respondent's policy provides that the Respondent's worker must explain the client's requirement to register with WorkForce.

The evidence failed to establish that a written notice of WorkForce registration requirement was issued. The Respondent did not provide any testimony or records to establish the due date the Appellant was required to complete her WorkForce registration.

CONCLUSIONS OF LAW

- 1) The Respondent must 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 may implement a SNAP disqualification penalty period after an advanced notice of adverse action.
- 3) The preponderance of evidence failed to verify the Respondent issued a written notice advising the Appellant of her SNAP work requirement and due date.
- 4) The preponderance of evidence failed to verify the Respondent orally explained the Appellant's SNAP work requirements before terminating her SNAP benefits.
- 5) As the preponderance of evidence failed to verify the Respondent provided the Appellant with a written notice and oral explanation of the Appellant's SNAP work requirements and due date, the Respondent's February 13, 2024 decision to implement a SNAP ineligibility sanction cannot be affirmed.
- 6) Because the Respondent incorrectly terminated the Appellant's SNAP eligibility after February 29, 2024, 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.

ENTERED this 10th day of May 2024.

Tara B. Thompson, MLS
State Hearing Officer