



May 23, 2024

[REDACTED]

RE: [REDACTED] vs. WVDoHS
BOR Action No.: 24-BOR-2417

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: Sharon Tomblin, BFA

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

████████████████████,

Appellant,

v.

Action Number: 24-BOR-2147

**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 May 23, 2024, on appeal filed May 7, 2024.

The matter before the Hearing Officer arises from the April 17, 2024 decision by the Respondent to terminate the Appellant's eligibility for the Supplemental Nutrition Assistance Program (SNAP).

At the hearing, the Respondent appeared by Sharon Tomblin, Economic Service Worker. The Appellant appeared pro se. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

D-1 Notice of Decision dated April 17, 2024

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 Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) The Appellant is the only member of his household.
- 3) The Appellant was required to provide verification of his registration with WorkForce West Virginia (WorkForce) by March 22, 2024.
- 4) The Appellant failed to provide the requested WorkForce registration or a documented exemption to the requirement by the established due date.
- 5) The Appellant has no previous sanctions for non-compliance to the SNAP work registration requirements.
- 6) On April 16, 2024, the Respondent imposed a penalty against the Appellant's SNAP benefits for failing to meet the work registration requirements.
- 7) The Appellant's work registration penalty was effective May 1, 2024.
- 8) On April 17, 2024, the Respondent issued a Notice of Decision (Exhibit D-1) informing the Appellant of the termination of his SNAP benefits due to his failure to comply with the work registration requirements.
- 9) The Appellant registered with WorkForce on April 18, 2024.
- 10) The Appellant did not notify the Respondent of his compliance with the work registration requirements.

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 § 14.5.1.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 April 30, 2024, the month prior to the effective date of the termination of SNAP benefits.

Neither party provided evidence for the hearing. However, the Respondent provided the Notice of Decision (Exhibit D-1) to correspond with the Appellant's verbal request for hearing dated May 7, 2024.

To maintain his eligibility for SNAP, the Appellant was required to provide verification of his WorkForce registration or provide verification of an exemption to the work registration requirements by April 30, 2024. The Respondent subsequently imposed a work penalty, effective May 1, 2024, against the Appellant, terminating his SNAP benefits when the Appellant failed to comply with the work registration requirements.

Sharon Tomblin, Economic Service Worker, testified that the Respondent issued notices to the Appellant in March 2024 informing him of the work registration requirements. On April 17, 2024, the Respondent terminated the Appellant's SNAP eligibility due to his non-compliance with the work registration requirements. Ms. Tomblin acknowledged that the Appellant complied with the requirements on April 18, 2024, but failed to notify the Respondent of his compliance.

The Appellant indicated that he contacted the Respondent's local office to provide information regarding his compliance and left a voicemail. The Appellant purported that he utilized a different phone number and the Respondent may not have recognized his compliance due to the information coming from a different phone number.

Governing policy indicates that a work registration penalty is not imposed if an individual registers with WorkForce and provides notification to the Respondent before the end of the month in which adverse notice expires. There was no evidence to support the Appellant's claim that he properly notified the Respondent of his compliance with the work registration requirements. Because the Appellant failed to notify the Respondent of his work registration compliance prior to April 30, 2024, the Respondent was correct in its decision to terminate SNAP benefits and impose a work registration penalty.

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 prior to the penalty imposition date of April 30, 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 May 2024.

Eric L. Phillips
State Hearing Officer