



June 27, 2024

[REDACTED]

RE: [REDACTED] v. WVDOHS  
ACTION NO.: 24-BOR-2132

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,

Todd Thornton  
State Hearing Officer  
Member, State Board of Review

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

cc: Trevor Wayne, Department Representative

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

██████████

**Appellant,**

v.

**Action Number: 24-BOR-2132**

**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 30, 2024, upon a timely appeal filed on May 7, 2024.

The matter before the Hearing Officer arises from the May 2, 2024 decision by the Respondent to deny the Appellant SNAP benefits due to a Workforce WV sanction.

At the hearing, the Respondent appeared by Trevor Wayne. The Appellant was self-represented. All witnesses were sworn and the following documents were admitted into evidence.

**Department's Exhibits:**

- D-1            SNAP application form from the Appellant, received April 23, 2024
- D-2            Notice excerpt dated July 24, 2023
- D-3            Case comments, entries dated August 10, 2023, through May 7, 2024
- D-4            Notice (SNAP Work Rules) dated January 16, 2024
- D-5            Screen prints from the Respondent's data system regarding the Appellant  
SNAP Work Requirement Penalty Summary (screen)  
WorkForce WV Registration (screen)

### **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 Respondent mailed the Appellant a notice (Exhibit D-4) dated January 16, 2024, advising the Appellant of "SNAP Work Rules."
- 3) This notice (Exhibit D-4) advised the Appellant that he "...must follow the **Basic Work Rules** and the **Able-Bodied Adults Without Dependents (ABAWD) Time Limit Rules...**" (emphasis in original)
- 4) The notice (Exhibit D-4) explained that to follow the Basic Work Rules, the Appellant must "...Register for job service with Workforce WV when approved for SNAP and every 12 months after..."
- 5) The notice (Exhibit D-4) provided a deadline of February 13, 2024, for the Appellant to comply with the registration requirement.
- 6) The Appellant did not comply with the registration requirement by the deadline.
- 7) The Respondent imposed a SNAP work penalty (Exhibit D-3, February 14, 2024 entry) against the Appellant beginning March 2024 (Exhibit D-5), and ending August 2024.
- 8) The Appellant received SNAP benefits in an assistance group (AG) of one (1), and the SNAP work penalty resulted in SNAP case closure.
- 9) The Appellant submitted a SNAP application (Exhibit D-1) on April 23, 2024.
- 10) The Respondent denied this SNAP application (Exhibit D-3) on or about May 1, 2024.
- 11) The Respondent's "SNAP Work Rules" notice was not returned by the postal service.
- 12) The Appellant did not report a change of address to the Respondent in January or February 2024 (Exhibit D-3).
- 13) The Appellant was 56 years old, as of January 17, 2024 (Exhibit D-1).

- 14) The 2024 penalty was the Appellant's second work registration penalty (Exhibit D-5).

### **APPLICABLE POLICY**

#### **West Virginia Income Maintenance Manual § 14.3.1.A documents:**

All individuals must register for employment with WorkForce West Virginia, within 30 days of the date of the original approval, unless exempt according to Section 14.2. 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.

...

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. See Section 14.5. 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 Human Services (DOHS) 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, refuses employment, or refuses to provide information about employment status and job availability 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. See Section 14.2 for exemptions.

- First violation: The client is removed from the 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(a) provides:**

(a) *Work requirements.*

(1) As a condition of eligibility for SNAP benefits, each household member 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.

...

**Code of Federal Regulations 7 CFR §273.7(b)(1) provides:**

(b) *Exemptions from work requirements.*

(1) The following persons are exempt from SNAP work requirements:

(i) A person younger than 16 years of age or a person 60 years of age or older. A person age 16 or 17 who is not the head of a household or who is attending school, or is enrolled in an employment training program, on at least a half-time basis, is also exempt. If the person turns 16 (or 18 under the preceding sentence) during a certification period, the State agency must register the person as part of the next scheduled recertification process, unless the person qualifies for another exemption.

(ii) A person physically or mentally unfit for employment. For the purposes of this [paragraph \(b\)](#), a State agency will define physical and mental fitness; establish procedures for verifying; and will verify claimed physical or mental unfitness when necessary. However, the State agency must not use a definition, procedure for verification, or verification that is less restrictive on SNAP recipients than a comparable meaning, procedure, or determination under the State agency's program funded under title IV-A of the Social Security Act.

(iii) A person subject to and complying with any work requirement under title IV of the Social Security Act. If the exemption claimed is questionable, the State agency is responsible for verifying the exemption.

(iv) A parent or other household member responsible for the care of a dependent child under 6 or an incapacitated person. If the child has his or her 6th birthday during a certification period, the State agency must work register the individual responsible for the care of the child as part of the next scheduled recertification process, unless the individual qualifies for another exemption.

(v) A person receiving unemployment compensation. A person who has applied for, but is not yet receiving, unemployment compensation is also exempt if that person is complying with work requirements that are part of the Federal-State unemployment compensation application process. If the exemption claimed is questionable, the State agency is responsible for verifying the exemption with the appropriate office of the State employment services agency.

(vi) A regular participant in a drug addiction or alcoholic treatment and rehabilitation program.

(vii) An employed or self-employed person working a minimum of 30 hours weekly or earning weekly wages at least equal to the Federal minimum wage multiplied by 30 hours. This includes migrant and seasonal farm workers under contract or similar agreement with an employer or crew chief to begin employment within 30 days (although this will not prevent individuals from seeking additional services from the State employment services agency). For work registration purposes, a person residing in areas of Alaska designated in [§ 274.10\(a\)\(4\)\(iv\) of this chapter](#), who subsistence hunts and/or fishes a minimum of 30 hours weekly (averaged over the certification period) is considered exempt as self-employed. An employed or self-employed person who voluntarily and without good cause reduces his or her work effort and, after the reduction, is working less than 30 hours per week, is ineligible to participate in SNAP under [paragraph \(j\)](#) of this section.

(viii) A student enrolled at least half-time in any recognized school, training program, or institution of higher education. Students enrolled at least half-time in an institution of higher education must meet the student eligibility requirements listed in [§ 273.5](#). A student will remain exempt during normal periods of class attendance, vacation, and recess. If the student graduates, enrolls less than half-time, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer), the State agency must work register the individual, unless the individual qualifies for another exemption.

**Code of Federal Regulations 7 CFR §273.7(f)(2) provides:**

(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**

The Appellant is contesting the Respondent's denial of SNAP benefits. This denial was based on an ongoing SNAP work penalty imposed by the Respondent, with an effective date beginning in March 2024. The Respondent must show, by a preponderance of the evidence, that its denial and work penalty imposition were correct.

The Appellant was a recipient of SNAP benefits. The Respondent mailed the Appellant a letter advising him of his specific requirements and the deadline for compliance. The Appellant did not meet the requirements by the established deadline and the Respondent imposed a SNAP work penalty. Because the Appellant is the sole individual in his SNAP household, the sanction resulted in case closure. The Appellant's sanction was his second (Exhibit D-5), resulting in a six-month penalty by policy.

The Appellant submitted a new application for SNAP on April 23, 2024 (Exhibit D-1) and the Respondent worker conducted an interview with the Appellant regarding the application on May 1, 2024. During the intake interview, the worker determined that the prior sanction was still in effect. Policy requires the sanction, once imposed, to be served for the full period unless an exemption is met. The Appellant did not establish an exemption.

The Appellant contended that his age exempted him from the SNAP work registration requirements. The Appellant turned 56 years old this year and is not exempted from SNAP work requirements. The age exemptions, from the Code of Federal Regulations, are, "...A person younger than 16 years of age or a person 60 years of age or older..." The Appellant appeared to be confusing exemptions from ABAWD policy with the SNAP work registration requirements. The exemptions are not interchangeable, and the Appellant was required to comply.

Finally, the Appellant contended that he did not receive the mail sent by the Respondent. The Appellant did not report a change in address to the Respondent at any time around the notification of his requirements and deadline. The Respondent worker testified that there was no returned mail

from the Appellant, and case comments (Exhibit D-3) do not indicate any returned mail. It is more convincing that the Appellant received the Respondent's notice of his work requirements and was therefore bound by them.

Based on the reliable evidence and testimony presented at the hearing, the Respondent proved that it properly established a SNAP work sanction against the Appellant for failure to comply with SNAP work registration requirements. The Respondent proved that this sanction was still in effect at the time of the Appellant's April 2024 SNAP application, and that there is no age-based exemption available to the Appellant until he is 60 years old. The Respondent proved that it correctly denied the April 2024 SNAP application of the Appellant during an ongoing work registration penalty.

### **CONCLUSIONS OF LAW**

- 1) Because the Appellant was not exempt from SNAP work registration requirements, he was required to register with Workforce WV by a set deadline.
- 2) Because the Appellant did not comply as required, the Respondent must impose a SNAP work penalty.
- 3) Because the Appellant is the sole member of his SNAP assistance group (AG), the penalty results in SNAP termination.
- 4) Because the Appellant's SNAP work penalty is his second, it is a six-month sanction.
- 5) Because the Appellant reapplied for SNAP during the six-month sanction without an exemption from SNAP work requirements, the sanction remains in effect and the Respondent correctly denied the Appellant's April 2024 SNAP application.

### **DECISION**

It is the decision of the State Hearing Officer to **UPHOLD** the decision of the Respondent to deny the Appellant's SNAP application based on a properly established and ongoing work requirement penalty.

**ENTERED this \_\_\_\_\_ day of June 2024.**

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**Todd Thornton  
State Hearing Officer**