



August 06, 2024

[REDACTED]

Re: [REDACTED] v WV DoHS
ACTION NO.: 24-BOR-2529

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,

Angela D. Signore
State Hearing Officer
Member, State Board of Review

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

cc: Rebecca Skeens, WV DoHS, [REDACTED]

BEFORE THE WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW

IN THE MATTER OF:

██████████,

Appellant,

v.

ACTION NO.: 24-BOR-2529

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 July 10, 2024, on an appeal filed June 24, 2024.

The matter before the Hearing Officer arises from the April 26, 2024 determination by the Respondent to apply a twelve (12) month sanction, thereby, terminating the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits

At the hearing, the Respondent appeared by Rebecca Skeens, Department of Human Services (DoHS). The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 WV DoHS Notice of SNAP Work Rules, dated March 14, 2024
- D-2 West Virginia (WV) People's Access to Help (PATH) eligibility system printout of Case Comments, dated November 07, 2023 through April 30, 2024
- D-3 WV DoHS Notice of Decision, dated April 26, 2024; and WV DoHS Notice of SNAP Work Requirement Penalty, dated April 26, 2024
- D-4 WV PATH eligibility system printout of SNAP Work Requirement Penalty Request

- D-5 WV PATH eligibility system printout of WorkForce WV Registration
- D-6 WV PATH eligibility system printout of Case Comments, dated June 11, 2024 through June 29, 2024
- D-7 West Virginia Income Maintenance Manual (WVIMM) §§ 14.3 through 14.3.1.A
- D-8 WVIMM § 14.3.1.B

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 for a four (4) person Assistance Group (AG). (Exhibits D-1 through D-6)
- 2) On March 14, 2024, the Respondent issued notice of decision to the Appellant informing her that she was required to register with WorkForce West Virginia (WorkForce WV) or meet an exemption, and notify the DoHS once registration was completed. The notice indicated her registration deadline was April 12, 2024. (Exhibit D-1)
- 3) On April 25, 2024, the Respondent received a computer-generated alert that the Appellant failed to register with WorkForce WV or meet an exemption prior to the April 12, 2024 deadline. (Exhibit D-2)
- 4) On April 26, 2024, the Respondent issued two additional notices informing the Appellant that effective June 01, 2024, a SNAP work requirement penalty would be applied to her benefits for failure to register with WorkForce WV. The notices informed her that she would remain ineligible for SNAP benefits for a period of twelve (12) months or until she complied with the registration requirement, whichever was longer. (Exhibit D-3)
- 5) The Appellant registered with WorkForce WV on May 02, 2024, but failed to notify the DoHS. (Exhibit D-3)
- 6) On June 01, 2024, the Respondent applied a twelve (12) month sanction to the Appellant's case, thereby, terminating his SNAP benefits due to the Appellant's failure to register with WorkForce WV or meet an exemption prior to the established deadline. (Exhibits D-2 through D-6)
- 7) The Appellant notified the Respondent that she registered with WorkForce WV on June 10,

2024. (Exhibits D-2 and D-6)

- 8) This is the Appellant's third (3rd) violation of the SNAP work requirement. (Exhibits D-2 through D-6)
- 9) The Appellant contested the Respondent's decision and on June 24, 2024, requested a Fair Hearing. (Exhibits D-2 and D-6)

APPLICABLE POLICY

The Code of Federal Regulations, 7 CFR § 273.7, provides, in part:

(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.

(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.

(b) Exemptions from work requirements

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

(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.

(c) State agency responsibilities

(1) State agency responsibilities

(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 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) Failure to comply

(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.

Office of Inspector General Common Chapters Manual § 710.16.B provides, in part:

The time limit for requesting a hearing shall be 90 days from the effective date of the action.

West Virginia Income Maintenance Manual (WVIMM) § 14.2 General SNAP Work Requirements and Exemptions provides, in part:

All SNAP clients are subject to a work requirement unless exempt.

WVIMM § 14.3.1.A Registration Requirements provides, in part:

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.

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 Supplemental Nutrition Assistance Program (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 adverse notice expires, the following occurs: the client registers

with WorkForce WV, the individual notifies the DHHR that he or she has registered. If the worker discovers the registration before the penalty goes into effect that the client has registered before the end of the month which the adverse action expires, the penalty may be lifted, and benefits restored.

WVIMM § 14.3.1.B WorkForce WV provides, in part:

During the application and redetermination process, the eligibility system will present a registration date obtained from WorkForce WV. If the client is not registered, no date will be returned. During the certification period, the worker may request the registration date through the eligibility system. When the client is due to re-register, he must show activity to fulfill this requirement. The date of the re-registration is the date of the last action with WorkForce WV or the due date of the re-registration, whichever is later.

WVIMM § 14.5 SNAP Work Requirement Penalties provides, in part:

A SNAP penalty is imposed when clients do not comply with a work requirement and do not have good cause. When determining the correct number of penalties, the Worker must look at the total number of penalties previously served, not just the number of penalties for each work requirement.

The penalty must be served unless the client meets an exemption. The penalty is never applied to an entire AG, only to the client who does not comply. When the reported exemption ends, the client is subject to the original penalty, unless he has complied or meets another exemption.

WVIMM § 14.5.1.B Non-Voluntary Quit Penalties provides, in part:

An individual who refuses or fails to register with WorkForce WV is subject to the following penalties for the full penalty period or until he or she reports a change which makes him or her exempt from the work requirements. For a third violation, the individual is removed from the SNAP AG for at least twelve (12) months or until he meets an exemption, whichever is later.

DISCUSSION

The Respondent bears the burden of proof to establish that action taken against the Appellant was in accordance with policy. The Respondent had to prove by a preponderance of evidence that the Appellant's SNAP benefits were correctly terminated, and a third (3rd) sanction applied based on the Appellant's non-compliance with the WorkForce WV registration requirement.

On March 14, 2024, the Respondent issued a notice informing the Appellant that she was required to register with WorkForce WV or meet an exemption by April 12, 2024, in order to comply with SNAP policy. On April 26, 2024, when the Appellant failed to register with WorkForce WV or

meet an exemption, the Respondent issued two additional notices. The notices informed the Appellant that due to her failure to register with WorkForce or meet an exemption, a work requirement penalty had been applied and the Appellant's SNAP benefits would terminate effective June 01, 2024. The notices further informed the Appellant that she would remain ineligible for SNAP benefits for a period of twelve (12) months or until she complied with the registration requirement, whichever was longer.

The Appellant did not dispute the Department's testimony or deny receiving the March and April 2024 notices. Instead, she testified that she has been registered with WorkForce WV since April 04, 2023. The Appellant further argued that because she was already registered for WorkForce, on April 30, 2024, she added an additional job search activity to ensure that her WorkForce WV registration was completed. The Respondent testified that interacting with WorkForce WV does equate to re-registration. The Respondent further testified that the Appellant's actual registration date was May 02, 2024, and in order for the Appellant's sanction to have been lifted and any lost benefits restored, the Appellant would have needed to contact the Department no later than May 31, 2024 to report her May 02, 2024 WorkForce WV registration completion.

The Appellant countered that the Respondent's registration date was incorrect and argued that she registered on April 30, 2024, instead. She further testified that she was not aware of the need to register yearly, nor the need to contact the Department once registration was completed, and further argued that she has not received a notice informing her of the requirement. It should be again noted that the Appellant testified to receiving the March 14, 2024 WorkForce WV registration notice. While the Respondent's and the Appellant's registration dates differ, the evidence revealed the Appellant failed to notify the Department of her WorkForce WV registration until June 10, 2024, after a third (3rd) sanction/twelve (12) month work requirement penalty had gone into effect.

Pursuant to policy section 14.3, an individual must register with WorkForce WV yearly as a condition of eligibility to receive SNAP benefits, unless an exemption is met. If an individual fails to register with WorkForce WV by the due date listed on the registration request letter, but registration is completed prior to the effective date of the SNAP work requirement penalty, and the Respondent is notified of the registration, the penalty may be removed. Because no evidence or testimony was provided that the Appellant met an exemption, and because the Appellant's WorkForce registration data reflected that the Appellant was not registered with WorkForce WV for SNAP purposes until May 02, 2024, after the April 12, 2024 due date listed on the registration request letter, she had a duty to report her WorkForce WV registration to the Respondent prior to the effective date of the SNAP work requirement penalty. Because the Appellant's WorkForce WV registration data reflected that the Appellant was not registered with WorkForce WV for SNAP purposes until May 02, 2024, and because she failed to report it until June 10, 2024, the preponderance of evidence established that the Respondent acted in accordance to the policy when implementing a third (3rd) WorkForce WV penalty.

It should be noted that at the end of the hearing, the Appellant disputed the Department's grounds for the issuance of a previous (second (2nd)) WorkForce WV penalty on an unknown date, 2023. However, because the Office of Inspector General Common Chapters Manual § 710.16.B provides that the time limit for requesting a hearing shall be ninety (90) days from the effective date of the

action, and because at the onset of the hearing both parties agreed that this hearing was regarding the termination of SNAP benefits due to the application of a third (3rd) [emphasis added] WorkForce WV penalty, the Appellant's dispute could not be explored.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, the Appellant was required to comply with SNAP work requirements by either registering with WorkForce WV or meeting an exemption no later than April 12, 2024.
- 2) Because the Appellant failed to register with WorkForce or meet an exemption for SNAP purposes by the deadline established by the Respondent, a third (3rd) work requirement penalty was applied to the Appellant's SNAP benefits.
- 3) Because this is the Appellant's third violation of the work requirement, policy requires she be excluded from participation in SNAP for a period of twelve (12) months.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's decision to impose a SNAP work requirement penalty for a period of twelve (12) months effective June 01, 2024.

ENTERED this 06th day of August 2024.

Angela D. Signore
State Hearing Officer