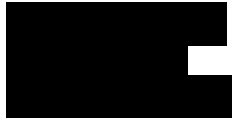




August 15, 2024



RE: vs. WVDoHS
BOR Action No.: 24-BOR-2761

Dear :

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: Teresa Bailes, BFA

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

████████████████████,

Appellant,

v.

Action Number: 24-BOR-2761

**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 August 14, 2024, on appeal filed July 23, 2024.

The matter before the Hearing Officer arises from the May 30, 2024 decision by the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program (SNAP) benefits.

At the hearing, the Respondent appeared by Teresa Bailes, Economic Service Worker. The Appellant appeared pro se. Appearing as a witness for the Appellant was ██████████, the Appellant's grandmother. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Notice of SNAP Work Rules dated February 29, 2024
- D-2 Notice of Penalty dated May 30, 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 29, 2024. (Exhibit D-1).
- 4) The Appellant has no previous sanctions for non-compliance to the SNAP work requirements.
- 5) On April 15, 2024, the Respondent sanctioned and terminated the Appellant's SNAP benefits for failure to comply with the SNAP work requirements effective May 1, 2024.
- 6) The Appellant registered with WorkForce on April 22, 2024 and notified the Respondent of his compliance.
- 7) The Respondent confirmed the Appellant's compliance with the SNAP work requirements and removed the sanction.
- 8) On May 28, 2024, the Appellant completed a PRC2 as a recertification for SNAP benefits.
- 9) On May 30, 2024, upon completion of the SNAP recertification, the Respondent imposed a sanction against the Appellant for non-compliance to the SNAP work requirements because the eligibility system did not demonstrate his previous compliance.
- 10) On May 30, 2024, the Respondent issued notice to the Appellant informing him that a second sanction had been applied to his SNAP benefits and terminated his assistance for six months.
- 11) The May 30, 2024 notice of sanction and termination was issued to the Appellant in error because it documented two sanctions against the Appellant's SNAP benefits and should have documented only one sanction.
- 12) The Appellant's SNAP benefits were terminated effective July 1, 2024, for three months through September 2024.
- 13) The Appellant completed an additional registration with WorkForce on July 10, 2024.

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.

West Virginia Income Maintenance Manual § 9.2.4 documents:

The DFA-NL-A is used for approvals and denials for all programs. The form is self-explanatory but must provide the client with a full understanding of the reason for the action taken.

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 formal evidence for the hearing. However, the Respondent included both the Notice of SNAP Work Rules (Exhibit D-1) and Notice of Decision (Exhibit D-2) to correspond with the Appellant's written hearing request dated July 19, 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 Appellant complied with the requirements on April 22, 2024. Teresa Bailes, Economic Service Worker, testified that the Respondent confirmed the Appellant's

compliance with the SNAP work requirements in April 2024. However, in May 2024, the Appellant completed a recertification for SNAP benefits in which the Respondent's eligibility determination system had no record of the Appellant's April 2024 compliance with the SNAP work requirements or any documented interaction with WorkForce. Based on that information, the Respondent imposed a sanction and terminated the Appellant's SNAP benefits effective July 1, 2024. On May 30, 2024, the Respondent issued notice (Exhibit D-2) to the Appellant documenting two sanctions and a termination of SNAP benefits for a six-month period. Ms. Bailes testified that such notice (Exhibit D-2) was issued in error and any notice issued to the Appellant should have reflected one sanction for a three-month penalty.

The Appellant, along with his witness, contend that he registered and complied with the requirements in April 2024, but no additional information or correspondence was received in the mail from the Respondent regarding the second sanction and termination of benefits. The Appellant indicated that he contacted the Respondent when he discovered no SNAP benefits on his Electronic Benefits Transfer (EBT) card for July 2024.

Governing policy mandates that a SNAP recipient, unless otherwise exempt, must register for employment with WorkForce within 30 days of the date of the original SNAP approval and every 12 months thereafter. A recipient cannot be required to register more often than every 12 months. Additionally, 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. On April 15, 2024, the Respondent imposed a sanction and terminated the Appellant's SNAP benefits effective May 1, 2024. Therefore, the Appellant had until April 30, 2024, adverse notice expiration, to provide verification of his compliance with the work requirement. On April 22, 2024, the Appellant complied and notified the Respondent of his compliance with the work registration compliance. The Respondent confirmed the Appellant's April 22, 2024 compliance prior to the expiration of adverse notice through testimony during the hearing process. Therefore, the Appellant successfully completed his obligation to the SNAP work rules. While the Respondent's eligibility system failed to document the Appellant's April 2024 compliance, any subsequent requirement to comply after the recertification was moot because the Appellant met the yearly requirement per policy. Additionally, notification issued to the Appellant was in error because it failed to document the correct number of sanction and length of penalty towards the Appellant's SNAP benefits. The Respondent failed to provide any documentation or evidence to support that the Appellant was correctly notified of any adverse action against his SNAP benefits.

Based on information presented during the hearing, the Respondent failed to prove by a preponderance of the evidence that the Appellant did not comply with the work registration requirements. Because the Appellant complied with the work registration requirement prior to April 30, 2024, the Respondent's decision to terminate the Appellant's SNAP benefits and impose a work registration penalty cannot be affirmed.

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) The Appellant complied with the work registration requirements with WorkForce West Virginia effective April 22, 2024; therefore, he is not required to comply with the requirements until April 2025.
- 3) The Respondent incorrectly imposed the July 2024 work registration penalty and termination of the Appellant's benefits.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the decision of the Respondent to terminate the Appellant's Supplemental Nutrition Assistance Program benefits. It is hereby **ORDERED** that terminated SNAP benefits for July 2024 be reinstated.

ENTERED this ____ day of August 2024.

Eric L. Phillips
State Hearing Officer