



September 19, 2024

[REDACTED]

RE: [REDACTED] v. WV DoHS BFA
ACTION NO.: 24-BOR-2791

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]
Kristyne Hoskins, WV DoHS, [REDACTED]

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

████████████████████

Appellant,

v.

Action Number: 24-BOR-2791

**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 21, 2024.

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

At the hearing, the Respondent appeared by Rebecca Skeens, Economic Service Worker, DoHS. The Appellant appeared *pro se*. Both witnesses were sworn and the following documents were admitted into evidence.

** Observing for the Respondent was Kristyne Hoskins, Economic Service Worker, Senior, DoHS.

Department's Exhibits:

- D-1 West Virginia (WV) Department of Human Services (DoHS) WorkForce Registration Notice, dated February 28, 2024
- D-2 WV People's Access to Help (PATH) eligibility system printout of Case Comments
- 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, dated July 29, 2024
- D-6 WV PATH SNAP application, dated July 17, 2024

- D-7 WV PATH eligibility system printout of Case Comments
- D-8 WV DoHS Notice of Decision, dated July 29, 2024
- D-9 West Virginia Income Maintenance Manual (WVIMM) §§ 1.2.2.B through 1.2.2.D
- D-10 WVIMM § 14.3.1.A
- D-11 WVIMM § 14.3.1.B

Appellant’s Exhibits:

None

* On August 26, 2024, when this Hearing Officer’s written decision was drafted, it was discovered that the audio record of the Appellant’s Fair Hearing was missing. Upon discovery of the missing audio portion, several attempts were made by the Board of Review to reach the Appellant, without success. On August 26 and August 27, 2024, attempts were made via telephone to establish a convenient date and time for the post-hearing conference. When these attempts were unsuccessful, a post-hearing conference was scheduled for September 17, 2024 at 10:30 o’clock, a.m. A notice was mailed to the Appellant on August 30, 2024. On the date of the scheduled post-hearing conference, when the Appellant failed to dial in, attempts were made by the Board of Review to reach the Appellant but were also unsuccessful. Therefore, the following decision is issued based on testimony and evidence as recalled by the hearing official, as well as typed notes made by the hearing official during the preceding.

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 one (1) person Assistance Group (AG). (Exhibits D-1 through D-8)
- 2) On February 28, 2024, the Respondent issued a WorkForce Registration Notice to the Appellant informing him that he was required to register with WorkForce and notify the DoHS once registration was completed. The notice indicated his registration deadline was March 28, 2024. (Exhibit D-1)
- 3) On March 13, 2024, the Appellant contacted the Respondent regarding the February 28, 2024 WorkForce Registration notice. At the time of the call, the Respondent informed the Appellant of his need to register with WorkForce or meet an exemption, prior to the March 28, 2024 registration deadline. (Exhibit D-2)
- 4) The Appellant failed to register with WorkForce or meet an exemption prior to the March 28, 2024 deadline. (Exhibits D-2 through D-5)
- 5) In April or May 2024, the Appellant failed to complete his SNAP review. (Exhibits D-2 and D-3)

- 6) On April 26, 2024, the Respondent issued two additional notices informing the Appellant that effective June 01, 2024, the Appellant's SNAP benefits would be terminated due to a failure to complete an eligibility review, and a SNAP work requirement penalty would be applied due to the Appellant's failure to register with WorkForce. The notices informed him that he would remain ineligible for SNAP benefits for a period of twelve (12) months or until he complied with the SNAP WorkForce registration requirement, whichever was longer. (Exhibits D-1 through D-5)
- 7) On June 01, 2024, the Appellant's SNAP benefits were terminated, and a ninth (9th) penalty was applied due to the Appellant's failure to register with WorkForce or meet an exemption prior to the established deadline. (Exhibits D-1 through D-5)
- 8) The Appellant reapplied for SNAP benefits for a one (1) person AG on July 17, 2024. (Exhibit D-6)
- 9) On July 26, 2024, the Appellant requested a Fair Hearing based on the April 26, 2024 Notice of Termination. (Exhibit D-7)
- 10) The Appellant registered with WorkForce on July 29, 2024. (Exhibit D-5)

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.

7 CFR § 273.14, provides, in part:

(a) **General.** No household may participate beyond the expiration of the certification period assigned in accordance with § 273.10(f) without a determination of eligibility for a new period. The State agency must establish procedures for notifying households of expiration dates, providing application forms, scheduling interviews, and recertifying eligible households prior to the expiration of certification periods. Households must apply for recertification and comply with interview and verification requirements.

(b) Recertification process —

(1) Notice of expiration.

- (i) The State agency shall provide households certified for one month or certified in the second month of a two-month certification period a notice of expiration (NOE) at the time of certification. The State agency shall provide other households the NOE before the first day of the last month of the certification period, but not before the first day of the next-to-the-last month. Jointly processed PA and GA households need not receive a separate SNAP notice if they are recertified for SNAP benefits at the same time as their PA or GA redetermination.
- (ii) Each State agency shall develop a NOE. The NOE must contain the following:
 - (A) The date the certification period expires;
 - (B) The date by which a household must submit an application for recertification in order to receive uninterrupted benefits;
 - (C) The consequences of failure to apply for recertification in a timely manner;
 - (D) Notice of the right to receive an application form upon request and to have it accepted as long as it contains a signature and a legible name and address;
 - (E) Information on alternative submission methods available to households which cannot come into the certification office or do not have an authorized representative and how to exercise these options;
 - (F) The address of the office where the application must be filed;
 - (G) The household's right to request a fair hearing if the recertification is denied or if the household objects to the benefit issuance;
 - (H) Notice that any household consisting only of Supplemental Security Income (SSI) applicants or recipients is entitled to apply for SNAP recertification at an office of the Social Security Administration;
 - (I) Notice that failure to attend an interview may result in delay or denial of benefits; and

- (J) Notice that the household is responsible for rescheduling a missed interview and for providing required verification information.
- (iii) To expedite the recertification process, State agencies are encouraged to send a recertification form, an interview appointment letter that allows for either in-person or telephone interviews, and a statement of needed verification required by § 273.2(c)(5) with the NOE.

(2) **Application.** The State agency must develop an application to be used by households when applying for recertification. It may be the same as the initial application, a simplified version, a monthly reporting form, or other method such as annotating changes on the initial application form. A new household signature and date is required at the time of application for recertification. The provisions of § 273.2(c)(7) regarding acceptable signatures on applications also apply to applications used at recertification. The recertification process can only be used for those households which apply for recertification prior to the end of their current certification period, except for delayed applications as specified in paragraph (e)(3) of this section. The process, at a minimum, must elicit from the household sufficient information that, when added to information already contained in the casefile, will ensure an accurate determination of eligibility and benefits. The State agency must notify the applicant of information which is specified in § 273.2(b)(2), and provide the household with a notice of required verification as specified in § 273.2(c)(5).

West Virginia Income Maintenance Manual (WVIMM) § 1.2.2.B provides, in part:

Periodic reviews of total eligibility for recipients are mandated by federal law. These are redeterminations and take place at specific intervals, depending on the program or Medicaid coverage group. Failure by the client to complete a redetermination will result in termination of benefits. If the client completes the redetermination process by the specified program deadline(s) and remains eligible, benefits must be uninterrupted and received at approximately the same time.

WVIMM § 14.2 provides, in part:

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

WVIMM § 14.3.1.A 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, 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 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 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 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 or subsequent 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 the 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 twelve (12) month SNAP work requirement penalty applied based on the Appellant's non-compliance with the WorkForce WV registration requirement, and due to the Appellant's failure to complete an eligibility review.

By notice of decision dated February 28, 2024, the Respondent notified the Appellant that he was required to register with WorkForce WV or meet an exemption by March 28, 2024, in order to comply with SNAP policy. On April 26, 2024, when the Appellant failed to complete an eligibility review and failed to register with WorkForce WV or meet an exemption, the Respondent issued two additional notices of decision. The notices informed the Appellant that effective June 01, 2024, the Appellant's SNAP benefits would be terminated due to the Appellant's failure to complete an eligibility review, and a SNAP work requirement penalty would be applied due to the Appellant's failure to register with WorkForce WV (or meet an exemption). The notice further advised that he would remain ineligible for SNAP benefits for a period of twelve (12) months, or until he complied with the registration requirement or met an exemption, whichever was longer.

On March 13, 2024, after having received the February 2024 Workforce WV Registration notice, the Appellant contacted the Department and was advised of his need to register with WorkForce WV prior to the registration deadline of March 28, 2024. In addition to the Appellant's failure to register with WorkForce WV, the Respondent testified that the Appellant also failed to complete a SNAP eligibility review prior to the June 01, 2024 termination date. It should be noted that on July 17, 2024, the Appellant submitted a new application for SNAP benefits via the WV PATH portal. However, due to the imposition of a twelve (12) month SNAP work requirement penalty; the Appellant's application was denied on July 29, 2024.

The Appellant did not dispute the Respondent's testimony or deny receiving the February, April, and July 2024 notices. Instead, the Appellant argued that he has been registered with WorkForce WV since 2017. When the Hearing Officer asked the Appellant for clarification to whether he created his WorkForce WV account in 2017 or if he was referring to his registration for SNAP since 2017, the Appellant testified that he was referring to his SNAP registration date.

Additionally, when the Appellant was questioned whether he completed his eligibility review prior to the termination of his SNAP benefits – June 01, 2024 – the Appellant testified that he completed his review in July 2024.

Policy section 1.2.2.B reads that periodic reviews of eligibility for recipients are mandated by federal law. A failure by the client to complete a redetermination will result in a termination of benefits. Additionally, pursuant to policy section 14.3, an individual must also register with WorkForce WV by visiting a WorkForce office, by registering online, or over the phone, 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 penalty, and the Respondent is notified of the registration, the penalty may be removed. A SNAP penalty is imposed when clients do not comply with the work requirement and do not have good cause. For a third (3rd) and all subsequent work requirement violations, the individual is removed from the SNAP AG for at least twelve (12) months or until he meets an exemption, whichever is later.

The evidence demonstrated the Respondent did comply with policy by sending all notices timely – as indicated in the case comment dated March 13, 2024. The March 2024 case comment not only reflects that the Appellant received the February 28, 2024 notice, but it further reveals the Appellant’s acknowledgement and understanding of his need to register prior to the March 28, 2024 registration deadline. Because no evidence or testimony was provided by either party that the Appellant met an exemption, the Appellant was required to register with WorkForce WV yearly in order to comply with the SNAP work requirement policy. Because the evidence revealed that the Appellant was not registered with WorkForce WV for SNAP purposes until July 29, 2024, four (4) months after the March 28, 2024 due date listed on the registration request letter, the preponderance of evidence established that the Respondent acted in accordance to the policy when terminating the Appellant’s SNAP benefits. Additionally, because this is the Appellant’s third (3rd) or subsequent SNAP work requirement penalty, he will remain ineligible for SNAP benefits for a period of twelve (12) months or until he complies with the SNAP work requirement policy (or meets an exemption), whichever is longer.

CONCLUSIONS OF LAW

- 1) Pursuant to policy, periodic reviews of eligibility are mandated by Federal Regulations. A failure by a client to complete a redetermination will result in a termination of benefits.
- 2) Policy provides that an individual must also register with WorkForce WV yearly, as a condition of eligibility to receive SNAP benefits, unless an exemption is met.
- 3) Because the Appellant did not complete a review as a condition for continued eligibility, the Respondent was correct to terminate the Appellant’s SNAP benefits.
- 4) Policy requires individuals with a third (3rd) or subsequent level sanction be excluded from participation in SNAP for a period of twelve (12) months, or until compliance with the SNAP work requirement (or an exemption is met), whichever is longer.

- 5) Because the Appellant failed to comply with the SNAP work requirement or meet an exemption by the March 28, 2024 deadline established by the Respondent, a work requirement penalty must be applied to the Appellant's SNAP benefits.
- 6) Because the Appellant has previously served a third (3rd) level (or greater) SNAP work requirement penalty, policy requires him to be excluded from participation in SNAP for a period of twelve (12) months, or until compliance with the SNAP work requirement (or an exemption is met), whichever is longer.

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 _____ day of September 2024.

**Angela D. Signore
State Hearing Officer**