



October 10, 2024

[REDACTED]

RE: [REDACTED] v. WVDoHS
ACTION NO.: 24-BOR-3009

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,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

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

cc: Terry Green, DoHS
Melissa Nestor, DoHS

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

[REDACTED]

Appellant,

v.

Action Number: 24-BOR-3009

**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 [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on October 2, 2024.

The matter before the Hearing Officer arises from the Respondent's decision to deny Supplemental Nutrition Assistance Program (SNAP) benefits for [REDACTED] in the Appellant's case for the months of May, June, and July 2024, and to add [REDACTED] to the Appellant's case in September 2024 (with benefits backdated to August 2024), as outlined in a notice dated August 13, 2024.

At the hearing, the Respondent appeared by Melissa Nestor, Economic Services Supervisor, WVDoHS, and Terri Green, Economic Service Worker, WVDoHS. The Appellant appeared *pro se*. All witnesses were sworn and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Disability/Incapacity Medical Assessment for [REDACTED]
- D-2 Work Program sanction letter and Notice of Decision issued to [REDACTED] on April 17, 2024
- D-3 Case Comments from Respondent's computer system

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 is a recipient of Supplemental Nutrition Assistance Program (SNAP) benefits.
- 2) The Appellant reported on May 29, 2024, that he and his girlfriend, [REDACTED] moved to [REDACTED] (Exhibit D-3).
- 3) [REDACTED] previously received SNAP benefits in her case in [REDACTED] (Exhibit D-3).
- 4) On April 16, 2024, the [REDACTED] office determined that [REDACTED] had not registered with WorkForce West Virginia, and she was placed in a three-month work program sanction beginning May 2024 through July 2024 (Exhibit D-3).
- 5) The Respondent did not add [REDACTED] to the Appellant's SNAP Assistance Group on May 29, 2024, because she was in a work program sanction through July 2024 and was ineligible.
- 6) [REDACTED] registered with WorkForce West Virginia on July 1, 2024, after the penalty had already begun and the penalty could not be lifted (Exhibit D-3).
- 7) [REDACTED] provided a Disability/Incapacity Medical Assessment to the Respondent on August 8, 2024 (Exhibit D-1).
- 8) The Respondent added [REDACTED] to the Appellant's SNAP case in August 2024 and issued auxiliary SNAP benefits for [REDACTED] for the month of August (Exhibit D-3).
- 9) The Appellant and [REDACTED] have been homeless and are currently residing in a camper.
- 10) On March 7, 2024, [REDACTED] completed an in-office interview at the [REDACTED] DoHS office and was advised that she needed to register with WorkForce West Virginia (Exhibit D-3).
- 11) The [REDACTED] DoHS office held mail at the front desk for [REDACTED] to pick up since she was homeless (Exhibit D-3).

APPLICABLE POLICY

Code of Federal Regulations 7 CFR §273.7 describes work requirements for SNAP recipients:

(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.

Code of Federal Regulations 7 CFR §273.7(b) states that a person younger than 16 years of age or a person 60 years of age or older is exempt from SNAP work requirements. Persons who are mentally or physically unfit for employment are also exempt from SNAP work requirements.

West Virginia Income Maintenance Manual Chapter 14.2.1.A states that all SNAP applicants/recipients are subject to a work requirement, unless exempt.

West Virginia Income Maintenance Manual Chapter 14.3.1.A states that all individuals must register for employment with WorkForce West Virginia within 30 days of the date of the original SNAP approval unless exempt. Clients must register every 12 months thereafter, regardless of the length of time that WorkForce West Virginia considers the registration valid. A client may register by visiting a WorkForce West Virginia office or may register online.

Chapter 14.5.1.B of the Manual states that 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 or she reports a change which makes him/her exempt from work requirements.

Chapter 14.5.1.B states that for a first work program violation, the individual is removed from the SNAP Assistance Group for at least three months or until he or she 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 UCI-related activities.

DISCUSSION

Policy states that all SNAP applicants/recipients are subject to a work requirement, unless exempt. A non-WV WORKS recipient who refuses or fails to register with WorkForce West Virginia is subject to a penalty for the full penalty period or until he or she reports a change that makes him/her exempt from work requirements. For the first work program violation, the individual is removed from the SNAP Assistance Group for at least three months or until he or she meets an exemption.

The Appellant testified that he believes [REDACTED] should have been added to his SNAP case and received benefits for the months of May, June, and July 2024. He stated that [REDACTED] did not receive her notices indicating that she was in a SNAP penalty and had moved from [REDACTED]. [REDACTED] was not present during the hearing to confirm whether or not she had received the notices.

Melissa Nestor, Economic Services Supervisor with the Respondent, testified that [REDACTED] was not added to the Appellant's SNAP case because her SNAP penalty had already begun before she moved to [REDACTED]. The Appellant registered with WorkForce West Virginia after the penalty had begun and provided a doctor's statement to the Respondent exempting her from work programs in August 2024. Ms. Nestor stated that there is no indication [REDACTED] SNAP penalty letters were returned to the Respondent as undeliverable.

As [REDACTED] was in a work program penalty from May through July 2024 based on failure to register with WorkForce West Virginia, the Respondent acted correctly in denying her SNAP benefits in the Appellant's case for the months of May through July 2024. Because the Appellant registered with WorkForce West Virginia in July 2024 and also produced documentation of an exemption beginning in August 2024, the Respondent correctly included [REDACTED] in the Appellant's SNAP benefits as of August 1, 2024.

CONCLUSIONS OF LAW

- 1) All SNAP applicants/recipients are subject to a work requirement, unless exempt.
- 2) A non-WV WORKS recipient who refuses or fails to register with WorkForce West Virginia is subject to a work program penalty for the full penalty period or until he or she reports a change that makes him/her exempt from work requirements.
- 3) [REDACTED] had already begun serving a three-month work penalty (May through July 2024) when the Appellant added her to his SNAP case in May 2024.
- 4) As the Appellant registered with WorkForce on July 1, 2024, after the work penalty had begun, and also provided a medical statement exempting her from work programs in August 2024, the Respondent's decision to add her to the Appellant's SNAP case effective August 2024 is correct.

DECISION

It is the decision of the State Hearing Officer to **UPHOLD** the Respondent's action to add [REDACTED] to the Appellant's SNAP benefits effective August 2024.

ENTERED this 10th day of October 2024.

**Pamela L. Hinzman
State Hearing Officer**